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For information on briefings in Washington, DC, see announcement on the inside cover of this issue.

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THE FEDERAL REGISTER

WHAT IT IS AND HOW TO USE IT

FOR: Any person who uses the Federal Register and Code of Federal Regulations.

WHO: The Office of the Federal Register.

WHAT: Free public briefings (approximately 3 hours) to present:

1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
2. The relationship between the Federal Register and Code of Federal Regulations.
3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

WASHINGTON, DC

(TWO BRIEFINGS)

WHEN: January 13 at 9:00 am and 1:30 pm

WHERE: Office of the Federal Register, 7th Floor Conference Room, 800 North Capitol Street NW, Washington, DC (3 blocks north of Union Station Metro)

RESERVATIONS: 202–523–4538

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Reader Aids
Additional information, including a list of public laws, telephone numbers, and finding aids, appears in the Reader Aids section at the end of this issue.

Electronic Bulletin Board
Free **Electronic Bulletin Board** service for Public Law numbers and **Federal Register** finding aids is available on 202–275–1538 or 275–0920.

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

Federal Register
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Presidential Documents

Title 3—

The President

Proclamation 6637 of December 10, 1993

Human Rights Day, Bill of Rights Day, and Human Rights Week, 1993

By the President of the United States of America

A Proclamation

Thomas Paine once wrote that "had we a place to stand upon, we might raise the world." December marks the anniversary of two cornerstone events in the continuing struggle to guarantee the protection of human rights and to raise world awareness of these due liberties. On December 15, 1791, the American Bill of Rights was ratified. And a century and a half later, on December 10, 1948, the United Nations General Assembly adopted the Universal Declaration of Human Rights. Each document has raised the sights—and elevated the lives—of countless people.

Our Bill of Rights guarantees our fundamental liberties, including freedom of religion, speech, and the press. It has been an enlightening guidepost during the more than 200 years of social change that have broadened our understanding of these basic liberties and assured these basic rights for all of our citizens. We continue to commemorate Bill of Rights Day because ensuring respect for human rights in the United States is never ending—it is a work in progress.

This year marks the 45th anniversary of the Universal Declaration of Human Rights. The universality of these rights and the common duty of all governments to uphold them—the themes embodied in the Declaration—were reaffirmed at the World Conference on Human Rights in Vienna this past June. The Declaration has been the building block for developing international consensus on human rights because it promotes common interests we share with other nations. It recognizes that all people are endowed with certain inalienable rights—the right to life, liberty, and security of person; the right to be free from arbitrary arrest and imprisonment; and the right not to be subjected to summary execution and torture. The Universal Declaration of Human Rights transcends socioeconomic conditions, as well as religious and cultural traditions, for no circumstance of birth, gender, culture, or geography can limit the yearnings of the human spirit for the right to live in freedom and dignity. These longings to improve the human condition are not a Western export. They are innate desires of humankind.

When we speak about human rights, we are talking about real people in real places. The Declaration's fundamental guarantees will ring hollow to many if the words are not converted to meaningful action. There is still much for us to do:

- we must see to it that human rights remain a high priority on the agenda of the United Nations, through the creation of a High Commissioner for Human Rights and the effective operation of the Tribunal on War Crimes in the former Yugoslavia;

- we must move promptly to obtain the consent of the Senate to ratify The International Convention on the Elimination of All Forms of Racial Discrimination;

• we must pass implementing legislation on the Convention Against Torture so that we underscore our commitment to the worldwide goal of eliminating this heinous human rights violation; and

• we must do all that is necessary to move to ratify the Convention on the Elimination of All Forms of Discrimination Against Women.

The Bill of Rights and Universal Declaration of Human Rights enshrine this timeless truth for all people and all nations: respect for human rights is the foundation of freedom, justice, and peace.

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim December 10, 1993, as "Human Rights Day," December 15, 1993, as "Bill of Rights Day," and the week beginning December 10, 1993, as "Human Rights Week." I call upon the people of the United States to observe these days and that week with appropriate programs, ceremonies, and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this tenth day of December, in the year of our Lord nineteen hundred and ninety-three, and of the Independence of the United States of America the two hundred and eighteenth.

William J. Clinton

[FR Doc. 93–30757
Filed 12–13–93; 4:41 pm]
Billing code 3195–01–P

Presidential Documents

Proclamation 6638 of December 10, 1993

Wright Brothers Day, 1993

By the President of the United States of America

A Proclamation

The modern era of aviation dawned on a wind-swept beach in North Carolina 90 years ago, when brothers Orville and Wilbur Wright achieved the unthinkable—most said impossible—sustained, powered flight in an aircraft. The "Flyer I" made its inaugural voyage on the morning of December 17, 1903. With Orville at the controls and Wilbur on the ground, the little craft stayed aloft for only 12 seconds and covered just 120 feet. But the brothers were not content to let that flight be their last; instead, they did their utmost to build and fly faster and better aircraft. The inventiveness, ingenuity, and dedication of the Wright brothers exalted the spirit of the American people.

This Nation's leadership in aviation that began with the Wright brothers continues today, as the prevailing technology has evolved from propeller power to jet engine propulsion, from supersonic transport to work on hypersonic aircraft. The National Aeronautics and Space Administration and related industry are now working together to develop the technologies for a commercial transport that will travel at more than twice the speed of sound. Continued leadership in aviation is increasingly important in today's global economy, not only to maintain America's competitive position in that economy, but also to facilitate the flow of international commerce. As the Federal Aviation Administration works to maintain and improve the world's safest and most efficient air transportation system, Americans must continue the research and development of even faster, safer, quieter, and more efficient aircraft. We must also work to advance our knowledge of air traffic structures and required technology needed for tomorrow.

When Wilbur Wright died in 1912, his father said of him that he had "an unfailing intellect, . . . great self-reliance, and as great modesty. [He saw] the right clearly, and pursu[ed] it steadily . . . ." These words apply not only to both of the Wright brothers, but to all who endeavor to apply the can-do spirit, inquisitiveness, and tenacity of the Wright brothers to the ongoing exploration of new aviation horizons.

The Congress, by a joint resolution approved December 17, 1963 (77 Stat. 402; 36 U.S.C. 169), has designated the seventeenth day of December of each year as "Wright Brothers Day" and requested the President to issue annually a proclamation inviting the people of the United States to observe that day with appropriate ceremonies and activities.

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, do hereby proclaim December 17, 1993, as Wright Brothers Day. I call upon the people of the United States to observe the occasion with appropriate programs, ceremonies, and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this tenth day of December, in the year of our Lord nineteen hundred and ninety-three, and of the Independence of the United States of America the two hundred and eighteenth.

William J. Clinton

[FR Doc 93–30758
Filed 12–13–93; 4:42 pm]
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Rules and Regulations

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OFFICE OF PERSONNEL MANAGEMENT

5 CFR Parts 293, 351, 430, 432, 451, 511, 530, 531, 536, 540, 575, 591, 595, and 771

RIN 3206–AF69

Termination of the Performance Management and Recognition System

AGENCY: Office of Personnel Management.

ACTION: Interim rule with request for comments.

SUMMARY: The Office of Personnel Management (OPM) is issuing interim regulations to implement the "Performance Management and Recognition System Termination Act of 1993" (Pub. L. 103–89), which provides for the temporary extension and orderly termination of the Performance Management and Recognition System (PMRS) and specifies how former PMRS employees will be paid.

DATES: These interim regulations are effective on November 1, 1993. Comments must be submitted on or before February 14, 1994.

ADDRESSES: Comments may be sent or delivered to the following:

1. Pay—Barbara L. Fiss, Assistant Director for Compensation Policy, U.S. Office of Personnel Management, room 6H31, 1900 E Street NW., Washington, DC 20415.

2. Performance Management—Allan D. Heuerman, Assistant Director for Labor Relations and Workforce Performance, U.S. Office of Personnel Management, room 7412, 1900 E Street NW., Washington, DC 20415.

FOR FURTHER INFORMATION CONTACT: James Weddel, (202) 606–2858, concerning questions about the changes in 5 CFR parts 511, 530, 531, 536, 575, 591, and 595; and Barbara Colchao, (202) 606–2720, concerning questions about the changes in 5 CFR parts 293, 351, 430, 432, 451, 540, and 771.

SUPPLEMENTARY INFORMATION: The "Performance Management and Recognition System Termination Act of 1993" (Pub. L. 103–89) removes the authorization for and references to the PMRS from title 5, United States Code. The PMRS Termination Act (referred to below as "the Act") also includes special provisions for adjusting the pay of former PMRS employees. Those special provisions will not be codified into title 5, United States Code. Therefore, existing pay setting regulations must be revised to include procedures that cover employees who were formerly subject to PMRS provisions and become subject to the special provisions of Public Law 103–89, effective November 1, 1993.

Section 2 of the Act extends the Performance Management and Recognition System (PMRS) by 1 month, through October 31, 1993. This extension allows agencies to pay PMRS employees merit increases and performance awards effective in October 1993 based upon their performance during fiscal year 1993.

Section 3 of the Act repeals the PMRS effective on November 1, 1993, by removing from statute section 4302a and chapter 54 of title 5, United States Code. As of November 1, 1993, all former PMRS employees will be considered GS employees for classification and pay administration purposes. All former PMRS employees become subject to the statutory requirements for performance appraisal at 5 U.S.C. 4302. All PMRS positions technically become GS positions and the GM pay plan code is redefined to mean employees covered by section 4 of the Act.

Section 4 of the Act includes special provisions that will apply to any employee who occupies a PMRS position on October 31, 1993. Under the special provisions, a rate of basic pay in effect for a PMRS employee on October 31, 1993, will continue in effect and will be treated as a General Schedule pay rate. (See § 531.204(c).) This will be true even if the employee's rate of basic pay does not equal one of the 10 steps or is below the minimum rate of the grade.

Termination of the PMRS

In title 5 of the Code of Federal Regulations (5 CFR), regulations for (1) the PMRS (part 540), (2) performance appraisal for the PMRS (subpart D of part 430), and (3) performance-based actions for the PMRS (§§ 432.105 and 432.107) have been removed along with all references to work objectives (§ 432.103).

Performance Management Plans After October 31, 1993

Agencies may choose to keep their PMRS Performance Management Plans, formerly required under 5 CFR 540.111, as separate systems under 5 CFR 430.103(b) for supervisors and management officials in grades 13, 14, and 15, provided technical changes are made (1) to address the retention level for performance-based actions and the conversion of work objectives to elements and standards, and (2) to delete references to PMRS pay administration features such as granting performance-sensitive general increases and merit increases. Any changes made to a PMRS plan after October 31, 1993, solely to make it conform to the requirements of 5 CFR part 430, subpart B, or to remove references to PMRS pay provisions are pre-approved. Nevertheless, agencies should notify OPM and the covered employees of any such changes. Alternatively, agencies should inform OPM and former PMRS employees if they will be covered by the components of their agency Performance Management Plans used for other General Schedule employees are required by 5 CFR 430.103(b).

Employees Subject to Section 4 of the Act

The interim regulations add a definition of *GM employee* to mean an employee covered by section 4 of the Act. The interim regulations specify that any reference to employees, grades, positions, or rates of basic pay under the General Schedule shall include GM employees for pay administration purposes (subchapters I and III of chapter 53 of title 5, United States Code), even when their rates of basic pay are not equal to one of the 10 steps of a grade or are below the minimum rate of a grade. (See § 531.202.)

Under this definition, an employee remains a GM employee when detailed to any position, or reassigned to another General Schedule position in which the employee will continue to be a "supervisor" or "management official." However, an employee will no longer be

a GM employee if the employee is promoted (including a temporary promotion), reduced in grade, transferred, reassigned to a position in which the employee will no longer be a "supervisor" or "management official," or has a break in service of more than 3 days.

Coverage under the Act will not continue for an employee whose grade remains the same under grade retention provisions but who moves to a position classified at a lower grade, even if the employee continues to be a supervisor or management official. The employee's rate of basic pay will be set at the appropriate step for the retained grade. (See § 536.308.)

Rates of Basic Pay

Rates of basic pay that are not on a step of the General Schedule and are paid to GM employees are deemed to be rates of basic pay of the General Schedule for the purposes of subchapters I and III of chapter 53 of title 5, United States Code. Except when pay retention applies, rates of basic pay for GM employees may not be set above the maximum rate for the applicable General Schedule grade or special salary rate schedule.

Section 4 of the Act provides special provisions to allow for adjusting pay rates when the employee's rate is not one of the 10 steps of the grade, along with granting OPM the authority to regulate the administration of this section. (See § 531.401(d).) The interim regulations incorporate these provisions into the pertinent parts of the current GS pay administration authority citations and regulations and retain for GM employees several pay setting procedures previously applicable to PMRS employees.

Within-Grade and Quality Step Increases

The interim regulations define a within-grade increase (see § 531.403) and a quality step increase (see § 531.502). For within-grade increases, they establish waiting periods (see § 521.405(a)), creditable service (see § 531 406), and procedures (see § 531.404) for GM employees. These regulations also establish and define the term *next higher rate within the grade* (see § 531.403).

Other Revisions to Regulations

Other revisions to regulations fall into three broad categories:

Substitution refers to a revision that has been made to maintain some special PMRS procedure that will continue to apply to employees covered by section 4 of the Act, usually because they may be paid at a rate other then one of the 10 steps of a grade. Typically, the phrase "a GM employee (as defined in § 531.202)" is substituted for "an employee covered by the Performance Management and Recognition System". Substitutions have been made at the following places:

Section title	Part/section
Determining employee rates	530.306
Effect of adjustment in scheduled pay rate	530.307
Definition—scheduled annual rate of pay	531.101
General provisions	531.203
Special provisions	531.204 (c) & (d)
Pay schedule conversion rules	531.205
Definition—scheduled annual rate of pay	531.301
Determination of rate of basic pay	536.205(a)

Deletion refers to a revision that has been made (1) simply to drop language that particularly referenced the PMRS or PMRS employees and where the remaining language will apply to employees covered by section 4 of the Act without further revision, or (2) to eliminate references to section 4302a and chapter 54 of title 5, United States Code, from an authority citation. Deletions have been made at the following places (after section redesignation, where applicable):

Section title	Part/section
Authority citation	293
Maintenance and content of folder	293.304
Representative rate in RIF	351.203
Authority citation	430
Authority	430.101
Performance Management Plans	430.103
Coverage	430.202
Authority and coverage	430.501
Authority citation	432
Statutory authority	432.101
Coverage	432.102
Definitions—acceptable performance	432.103(a)
Addressing unacceptable performance	432.104
Proposing and taking action	432.105
Agency records	432.107
Authority citation	451
Authority and coverage	451.101
Policy	451.104
Authority and coverage	451.201
OPM responsibilities	451.203
Authority citation	531
Definitions—employee	531.101
Applicability	531.201
Definitions—representative rate	536.102
Delegation of authority	575.102
Delegation of authority	575.202
Delegation of authority	575.302
Delegation of authority	575.402
Agencies and employees covered	591.203
Grievance coverage	771.105

Removal refers to a revision where an entire paragraph has been dropped because it referred only to the PMRS and its complete deletion leaves employees subject to section 4 of the Act covered by other existing regulations that apply to other GS employees. Removals have been effected at the following places:

Section title	Paragraph
Performance management plans	430.103(b)(2)
Definition—critical work objective	432.103(c)
Definition—performance improvement plan	432.103(f)
Effective dates	511.701(a)(1)(iii)
Special provisions	531.204(a)(2)
Employee coverage	531.402(b)(1)

In addition, the regulation extending coverage of physicians' comparability allowances to SES as well as PMRS employees (see § 595.102(b)) is removed because 5 U.S.C. 5948(g)(1)(B) already provides the SES such coverage.

Waiver of Delay in Effective Date

Pursuant to 5 U.S.C. 553(b)(3)(B), I find that good cause exists for waiving the general notice of proposed rulemaking and making these rules effective in less than 30 days. Section 3 of the Performance Management and Recognition System Termination Act of 1993 repeals the Performance Management and Recognition System (PMRS) effective on November 1, 1993. These regulations are being made effective on November 1, 1993, in order to implement the provisions of section 4 of the PMRS Termination Act which provide that the rates of basic pay in effect for PMRS employees on October 3, 1993, will continue in effect for covered employees and will be treated as General Schedule pay rates. If these regulations do not replace existing OPM regulations on November 1, 1993, OPM regulations will be inconsistent with requirements of the PMRS Termination Act.

E.O. 12291, Federal Regulation

I have determined that this is not a major rule as defined under section 1(b) of E.O. 12291, Federal Regulation.

Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities because they apply only to Federal agencies and employees.

List of Subjects

5 CFR Part 293

Archives and records, Freedom of information, Government employees, Health records, Privacy.

5 CFR Parts 351 and 432

Administrative practice and procedure, Government employees.

5 CFR Parts 430 and 451

Decorations. medals, awards, Government employees.

5 CFR Part 511

Administrative practice and procedure, Freedom of information, Government employees, Wages.

5 CFR Part 530

Government employees, Reporting and recordkeeping requirements, Wages.

5 CFR Parts 531, 540, and 575

Government employees, Wages.

5 CFR Part 536

Administrative practice and procedure, Freedom of information, Government employees, Reporting and recordkeeping requirements, Wages.

5 CFR Part 591

Government employees, Travel and transportation expenses, Wages.

5 CFR Part 595

Government employees, Health professions, Wages.

5 CFR Part 771

Administrative practice and procedure, Government employees.

U.S. Office of Personnel Management.

Lorraine A. Green,

Deputy Director.

Accordingly, OPM is amending parts 293, 351, 430, 432, 451, 511, 530, 531, 536, 540, 575, 591, 595, and 771 of title 5, Code of Federal Regulations, as follows:

PART 293—PERSONNEL RECORDS

1. The authority citation for part 293 is revised to read as follows:

Authority: 5 U.S.C. 552 and 4315; E.O. 12107 (December 28, 1978), 3 CFR 1954–1958 Comp.; 5 U.S.C. 1103, 1104, and 1302; 5 CFR 7.2; E.O. 9830; 3 CFR 1943–1948 Comp.; 5 U.S.G. 2951(2) and 3301; and E.O. 12107.

2. Section 293.304 is revised to read as follows:

§ 293.304 Maintenance and content of folder.

The head of each agency shall maintain in the Official Personnel Folder the reports of selection and other personnel actions named in section 2951 of title 5, United States Code. The folder shall contain long-term records affecting the employee's status and service as required by OPM's instructions and as designated in the Guide to Personnel Recordkeeping.

PART 351—REDUCTION IN FORCE

3. The authority citation for part 351 continues to read as follows:

Authority: 5 U.S.C. 1302, 3502, 3503.

4. In § 351.203 the definition of *representative rate* is revised to read as follows:

§ 351.203 Definitions.

* * * * *

Representative rate means the fourth step of the grade for a position subject to the General Schedule, the prevailing rate for a position under a wage-board or similar wage-determining procedure, and for other positions, the rate designated by the agency as representative of the position.

* * * * *

PART 430—PERFORMANCE MANAGEMENT

5. The authority citation for part 430 is revised to read as follows:

Authority: 5 U.S.C. chapters 43, 45, and 53.

6. Section 430.101 is revised to read as follows:

§ 430.101 Authority.

Chapters 43, 45, and 53 of title 5, United States Code, provide for performance appraisal, awards, and pay for Federal employees. This subpart supplements and implements those portions of the law as well as parts 451 and 531 of this chapter.

7. In § 430.103, paragraph (b)(1) is revised, paragraph (b)(2) is removed, and paragraphs (b)(3) through (b)(6) are redesignated as paragraphs (b)(2) through (b)(5) respectively.

§ 430.103 Performance Management Plans.

* * * * *

(b) * * *

(1) Performance appraisal systems plans required under 5 U.S.C. 4302 and 4312 and subparts B and C of this part.

* * * * *

8. In § 430.202, paragraphs (a)(2) and (b)(1) are revised to read as follows:

§ 430.202 Coverage.

(a) * * *

(2) Section 4301(2) of title 5, United States Code, defines employees covered by statute by this subpart. Besides General Schedule and prevailing rate employees, coverage includes, but is not limited to, senior-level and scientific and professional employees paid under 5 U.S.C. 5376.

(b) * * *

(1) This subpart does not apply to agencies or employees excluded by 5 U.S.C. 4301 (1) and (2), the United States Postal Service, or the Postal Rate Commission.

* * * * *

9. Subpart D, consisting of §§ 430.401 through 430.412, is removed and reserved.

10. In § 430.501, paragraph (b) is revised to read as follows:

§ 430.501 Authority and coverage.

* * * * *

(b) This subpart applies to employees as defined under section 2105 of title 5, United States Code, but does not include employees in the Senior Executive Service.

* * * * *

PART 432—PERFORMANCE BASED REDUCTION IN GRADE AND REMOVAL ACTIONS

11. The authority citation for part 432 is revised to read as follows:

Authority: 5 U.S.C. 4303, 4305.

12. Section 432.101 is revised to read as follows:

§ 432.101 Statutory authority.

This part applies to reduction in grade and removal of employees covered by the provisions of this part based solely on performance at the unacceptable level. 5 U.S.C. 4305 authorizes the Office of Personnel Management to prescribe regulations to carry out the purposes of title 5, chapter 43, United States Code, including 5 U.S.C. 4303, which covers agency actions to reduce in grade or remove employees for unacceptable performance. (The provisions of 5 U.S.C. 7501 *et seq.*, may also be used to reduce in grade or remove employees. See part 752 of this chapter.)

13. In § 432.102, paragraph (a) is revised to read as follows:

§ 432.102 Coverage.

(a) *Actions covered.* This part covers reduction in grade and removal of employees based on unacceptable performance.

* * * * *

14. In § 432.103, paragraph (a) is revised, paragraph (c) is removed, paragraphs (d) and (e) are redesignated as paragraphs (c) and (d) respectively, newly redesignated paragraph (d) is revised, paragraph (f) is removed, paragraphs (g) through (j) are redesignated as paragraphs (e) through (h) respectively, and newly redesignated paragraph (h) is revised to read as follows.

§ 432.103 Definitions.

* * * * *

(a) *Acceptable performance* means performance that meets an employee's performance requirement(s) or standard(s) at a level of performance above "unacceptable" in the critical element(s) at issue.

* * * * *

(d) *Opportunity to demonstrate acceptable performance* means a reasonable chance for the employee whose performance has been determined to be unacceptable in one or more critical elements to demonstrate acceptable performance in the critical element(s) at issue.

* * * * *

(h) *Unacceptable performance* means performance of an employee that fails to meet established performance standards in one or more critical elements of such employee's position.

15. In § 432.104, the section heading and the first sentence are revised to read as follows:

§ 432.104 Addressing unacceptable performance.

At any time during the performance appraisal cycle that an employee's performance is determined to be unacceptable in one or more critical elements, the agency shall notify the employee of the critical element(s) for which performance is unacceptable and inform the employee of the performance requirement(s) or standard(s) that must be attained in order to demonstrate acceptable performance in his or her position. * * *

16. Sections 432.105 and 432.107 are removed, §§ 432.106, 432.108, and 432.109 are redesignated as §§ 432.105, 432.106, and 432.107 respectively, the section heading of and paragraph (a)(4)(i)(C) in newly redesignated § 432.105 are revised to read as follows:

§ 432.105 Proposing and taking action based on unacceptable performance.

(a) * * *

(4) * * *

(i) * * *

(C) If an agency believes that an extension of the advance notice period is necessary for another reason, it may request prior approval for such extension from the Chief, Family Programs and Employee Relations Division, Office of Labor Relations and Workforce Performance, Personnel Systems and Oversight Group, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415.

* * * * *

16A. Newly designated § 432.107 is amended by revising the first sentence of paragraph (a) and paragraph (b) to read as follows:

§ 432.107 Agency records.

(a) * * * The agency shall preserve all relevant documentation concerning a reduction in grade or removal which is based on unacceptable performance and make it available for review by the affected employee or his or her representative. * * *

(b) *When the action is not affected.* As provided at 5 U.S.C. 4303(d), if, because of performance improvement by the employee during the notice period, the employee is not reduced in grade or removed, and the employee's performance continues to be acceptable for 1 year from the date of the advanced written notice provided in accordance with § 432.105(a)(4)(i), any entry or other notation of the unacceptable performance for which the action was proposed shall be removed from any agency record relating to the employee.

PART 451—INCENTIVE AWARDS

17. The authority citation for part 451 is revised to read as follows:

Authority: 5 U.S.C. 4501–4507.

18. Section 451.101 is revised to read as follows:

§ 451.101 Authority and coverage.

(a) This subpart contains the regulatory requirements of the Office of Personnel Management (OPM) for establishing and conducting the Superior Accomplishment Awards component of the Performance Management System under the authority of title 5, United States Code, chapters 43 and 45.

(b) This subpart applies to employees as defined by section 2105 of title 5, United States Code.

(c) This subpart applies to agencies as defined in section 4501 of title 5, United States Code.

(d) For the regulatory requirements for granting performance awards based on an employee's rating of record, refer to—

(1) Part 430, subpart E, of this chapter for General Schedule, prevailing rate, and certain other employees covered by 5 U.S.C. 4301–4305; and

(2) Section 534.403 of this chapter for Senior Executive Service (SES) employees.

19. In § 451.104, the introductory text of paragraph (a), and paragraph (c) are revised to read as follows:

§ 451.104 Policy.

(a) The Office of Personnel Management encourages agencies to make maximum use of their authorities under chapter 45 of title 5, United States Code, to:

* * * * *

(c) An award under this subpart may be granted alone or in addition to a performance award granted under part 430, subpart E of this chapter, or a quality step increase granted under part 531, subpart E of this chapter.

* * * * *

20. In § 451.201, the introductory text of paragraph (a), and paragraph (c) are revised to read as follows:

§ 451.201 Authority and coverage.

(a) Under chapter 45 of title 5, United States Code, the President may pay a cash award to and incur necessary expenses for the honorary recognition of an employee who:

* * * * *

(c) Except as provided in paragraph (b) of this section, this subpart applies to employees as defined by section 2105 of title 5, United States Code.

* * * * *

21. In § 451.203, paragraph (c) is revised to read as follows:

§ 451.203 Responsibilities of the Office of Personnel Management.

* * * * *

(c) Under Executive Order 11228, section 2, the Office of Personnel Management has the authority to determine the activity or activities primarily benefiting from any suggestion, invention, or other contribution which forms the basis for a Presidential award under 5 U.S.C. 4504.

PART 511—CLASSIFICATION UNDER THE GENERAL SCHEDULE

22. The authority citation for part 511 continues to read as follows:

Authority: 5 U.S.C. 5115, 5338, 5351.

23. In § 511.701, paragraph (a)(1)(iii) is removed.

PART 530—PAY RATES AND SYSTEMS (GENERAL)

24. The authority citation for part 530 is revised to read as follows:

Authority: 5 U.S.C. 5305 and 5307; E.O. 12748;

Subpart B also issued under sec. 302(c) and 404(c) of the Federal Employees Pay Comparability Act of 1990 (Pub. L. 101–509), 104 Stat. 1462 and 1466, respectively;

Subpart C also issued under sec. 4 of the Performance Management and Recognition System Termination Act of 1993 (Pub. L. 103–89), 107 Stat. 981.

Subpart C—Special Salary Rate Schedules for Recruitment and Retention

25. In § 530.306, paragraphs (a)(3) and (b)(2) are revised to read as follows:

§ 530.306 Determining employee rates.

(a) * * *

(3) When a special salary rate schedule becomes initially applicable to, or increased for, a position occupied by a GM employee (as defined in § 531.202 of this chapter), the employee's rate of basic pay shall be determined under § 531.205(a)(2) of this chapter.

(b) * * *

(2) If the employee is receiving a rate of basic pay applicable to a GM employee (as defined in § 531.202 of this chapter), the employee shall receive his or her existing rate. This rate may be lower than the minimum of the regular schedule as permitted by section 4 of Public Law 103–89. If the employee's existing rate exceeds the maximum rate for the regular or decreased special salary rate schedule, the employee shall be entitled to the existing rate, as provided in § 536.104(a)(3) of this chapter.

* * * * *

26. In § 530.307, paragraph (c) is revised to read as follows:

§ 530.307 Effect of an adjustment in scheduled rates of pay.

* * * * *

(c) A GM employee (as defined in § 531.202 of this chapter) receiving a special salary rate immediately before the effective date of an adjustment in scheduled rates of pay shall receive on that effective date a rate of basic pay determined under § 531.205(a)(2) of this chapter. However, in the case of an employee who becomes eligible for pay retention because the employee's pay would otherwise be reduced under § 530.304, the employee shall receive a rate of basic pay determined under § 536.205(b) of this chapter.

PART 531—PAY UNDER THE GENERAL SCHEDULE

27. The authority citation for part 531 is revised to read as follows:

Authority: 5 U.S.C. 5115, 5307, 5338; sec. 4 of the Performance Management and Recognition System Termination Act of 1993 (Pub. L. 103–89), 107 Stat. 981; E.O. 12748, 56 FR 4521, February 4, 1991, 3 CFR 1991, Comp., p. 316;

Subpart A also issued under section 302 of the Federal Employees Pay Comparability Act of 1990 (Pub. L. 101–509), 104 Stat. 1462, and E.O. 12786, 56 FR 67453, December 30, 1991, 3 CFR 1991 Comp., p. 376;

Subpart B also issued under 5 U.S.C. 5303(g), 5333, 5334(a), and 7701(b)(2);

Subpart C also issued under section 404 of Pub. L. 101–509, 104 Stat. 1446, and section 3(7) of Pub. L. 102–378 (October 2, 1992);

Subpart D also issued under 5 U.S.C. 5335(g) and 7701(b)(2);

Subpart E also issued under 5 U.S.C. 5336.

Subpart A—Interim Geographic Adjustments

28. In § 531.101, the definition of *employee* and the introductory text of paragraph (b) of the definition of *scheduled annual rate of pay* are revised to read as follows:

§ 531.101 Definitions.

* * * * *

Employee means an employee in a position to which subchapter III of chapter 53, United States Code, applies, whose official duty station is located in an interim geographic adjustment area, including an employee in a position authorized by § 213.3102(w) of this chapter whose rate of basic pay is established under the General Schedule.

* * * * *

Scheduled annual rate of pay means—

* * * * *

(b) For a GM employee (as defined in § 531.202) who receives a local special salary rate, the rate of pay resulting from the following computation—

* * * * *

29. Section 531.201 is revised to read as follows:

§ 531.201 Applicability.

This subpart and sections 5333 and 5334 of title 5, United States Code, apply to employees and positions, other than Senior Executive Services positions, to which chapter 51 of title 5, United States Code, applies.

30. In § 531.202, paragraphs (e) through (m) are redesignated as paragraphs (f) through (n) respectively, and new paragraph (e) is added to read as follows:

§ 531.202 Definitions.

* * * * *

(e) *GM employee* means an employee who was covered by the Performance Management and Recognition System under chapter 54 of title 5, United States Code, on October 31, 1993, and who continues to occupy a position as a supervisor or management official (as defined in paragraphs (10) and (11) of section 7103(a) of title 5, United States Code) in the same grade of the General Schedule and in the same agency without a break in service of more than 3 calendar days. Any reference to employees, grades, positions, or rates of basic pay under the General Schedule shall include GM employees for the purposes of subchapter I and III of chapter 53 of title 5, United States Code.

* * * * *

31. In § 531.203, the introductory text of paragraph (c)(1) and the first sentence of paragraph (c)(2) introductory text are revised to read as follows:

§ 531.203 General provisions.

* * * * *

(c) * * *

(1) Except as provided in paragraph (c)(2) of this section, the maximum rate of basic pay that may be paid a General Schedule employee shall be determined as follows:

* * * * *

(2) The maximum rate of basic pay that may be paid a GM employee shall be determined as follows. * * *

* * * * *

32. In § 531.204, paragraph (a)(2) is removed, paragraph (a)(3) is redesignated as paragraph (a)(2), and paragraphs (c) and (d) introductory text, (d)(1) and (d)(2) and the introductory text of paragraph (e) are revised to read as follows:

§ 531.204 Special provisions.

* * * * *

(c) *Rate of basic pay when an employee becomes covered by section 4 of Public Law 103–89.* When an employee becomes covered by section 4 of Public Law 103–89, the employee will continue to receive his or her existing rate of basic pay.

(d) *Rate of basic pay when an employee loses coverage under section 4 of Public Law 103–89.* Except as provided by paragraph (e) of this section, when an employee loses coverage under section 4 of Public Law 103–89, the employee shall receive his or her existing rate of basic pay, plus any of the following adjustments that may be applicable, in the order specified:

(1) The amount of any annual adjustment under section 5303 of title 5, United States Code to which the employee would otherwise be entitled on that date, or for an employee subject to special pay rates, the amount of any pay adjustment made on that date under section 5305 of title 5, United States Code, and part 530 of this chapter;

(2) The amount of any step increase under section 5335 of title 5, United

States Code, and § 531.404 to which the employee otherwise would be entitled on that date;

* * * * *

(e) Paragraphs (d) (1) through (4) of this section do not apply to any employee who is no longer covered by section 4 of Public Law 103–89 as a result of—

* * * * *

33. In § 531.205, paragraph (a)(2) is revised to read as follows:

§ 531.205 Pay schedule conversion rules at the time of an annual pay adjustment under 5 U.S.C. 5303.

(a) * * *

(2) (i) Except as provided in paragraphs (a)(2) (ii) through (iv) of this section, an agency shall determine the annual pay adjustment under 5 U.S.C. 5303 for a GM employee as follows:

(A) Subtract the minimum rate of the range of the employee's position in effect on the day immediately preceding the pay adjustment from the employee's rate of basic pay on the day immediately preceding the pay adjustment;

(B) Subtract the minimum rate of the range in effect immediately preceding the pay adjustment from the maximum of that rate range;

(C) Divide the result of paragraph (a)(2)(i)(A) of this section by the result of paragraph (a)(2)(i)(B) of this section, carry the result to the seventh decimal place, and truncate, rather than round, the result;

(D) Subtract the minimum rate of the new rate range for the grade from the maximum rate of that range;

(E) Multiply the result of paragraph (a)(2)(i)(C) of this section by the result of paragraph (a)(2)(i)(D) of this section; and

(F) Add the result of paragraph (a)(2)(i)(E) of this section to the minimum of the new rate range and round to the next higher whole dollar amount.

(ii) The rate of basic pay of an employee which is at the minimum or maximum of the rate range in effect on the day preceding the pay adjustment will be adjusted to the minimum or maximum of the new rate range respectively.

(iii) The rate of basic pay of an employee which is less than the minimum rate of the rate range of the employee's position will be adjusted by multiplying the employee's rate of basic pay on the day immediately preceding the pay adjustment by the full amount of the annual pay adjustment under 5 U.S.C. 5303 applicable to the rate range of the grade of the employee's position.

(iv) An employee who is receiving retained pay will receive one-half of the annual pay adjustment under 5 U.S.C. 5303, as required under 5 U.S.C. 5363(a).

* * * * *

34. In § 531.301, the introductory text of paragraph (b) of the definition of *scheduled annual rate of pay* is revised to read as follows:

§ 531.301 Definitions.

* * * * *

Scheduled annual rate of pay means—

* * * * *

(b) For a law enforcement officer who is a GM employee (as defined in § 531.202) and is receiving a local special salary rate under 5 U.S.C. 5305 or a similar provision of law (other than section 403 of the Federal Employees Pay Comparability Act of 1990 (Pub. L. 101–509)), the rate of pay resulting from the following computation—

* * * * *

35. In § 531.401, paragraph (d) is added to read as follows:

§ 531.401 Principal authorities.

* * * * *

(d) Section 4 of Public Law 103–89 provides that "the Office of Personnel Management shall prescribe regulations necessary for the administration of this section."

36. In § 531.402, paragraph (b)(1) is removed, and paragraphs (b)(2) through (b)(4) are redesignated as paragraphs (b)(1) through (b)(3), respectively.

37. In § 531.403, a definition of *next higher rate within the grade* is added, and the definition of *within-grade increase* is revised to read as follows:

§ 531.403 Definitions.

* * * * *

Next higher rate within the grade for a GM employee (as defined in § 531.202) means the rate of basic pay which exceeds an employee's existing rate of basic pay by one-ninth of the difference between the minimum and maximum rates of pay for the applicable General Schedule grade or special salary rate schedule established under section 5305 of title 5, United States Code, not to exceed the maximum rate for the grade.

* * * * *

Within-grade increase is synonymous with the term "step increase" used in section 5335 of title 5, United States Code and means—

(1) A periodic increase in an employee's rate of basic pay from one step of the grade of his or her position to the next higher step of that grade in accordance with section 5335 of title 5, United States Code, and this subpart; or

(2) For a GM employee (as defined in § 531.202), a periodic increase in an employee's rate of basic pay from his or her current rate to the next higher rate within the grade (as defined in this section) in accordance with section 4 of Pub. L. 103–89.

38. In § 531.404, the introductory text is revised to read as follows:

§ 531.404 Earning within-grade increase.

An employee paid at less than step 10 of the grade of his or her position shall earn advancement in pay to the next higher step of the grade or the next higher rate within the grade (as defined in § 531.403) upon meeting the following three requirements established by law:

* * * * *

39. In § 531.405, paragraph (a) is revised to read as follows:

§ 531.405 Waiting periods for within-grade increase.

(a) *Length of waiting period.* (1) For an employee with a scheduled tour of duty the waiting periods for advancement to the next higher step in all General Schedule grades (or the next higher rate within the grade, as defined in § 531.403) are:

(i) Rate of basic pay less than the rate of basic pay at step 4–52 calendar weeks of creditable service;

(ii) Rate of basic pay equal to or greater than the rate of basic pay at step 4 and less than the rate of basic pay at step 7–104 calendar weeks of creditable service; and

(iii) Rate of basic pay equal to or greater than the rate of basic pay at step 7–156 calendar weeks of creditable service.

(2) For an employee without a scheduled tour of duty the waiting periods for advancement to the next higher step of all General Schedule grades (or the next higher rate within the grade, as defined in § 531.403) are:

(i) Rate of basic pay less than the rate of basic pay at step 4–260 days of creditable service in a pay status over a period of not less than 52 calendar weeks;

(ii) Rate of basic pay equal to or greater than the rate of basic pay at step 4 and less than the rate of basic pay at step 7–520 days of creditable service in a pay status over a period of not less than 104 calendar weeks; and

(iii) Rate of basic pay equal to or greater than the rate of basic pay at step 7–780 days of creditable service in a pay status over a period of not less than 156 calendar weeks.

* * * * *

40. In § 531.406, paragraphs (b)(2)(i) through (b)(2)(ii) are revised to read as follows:

§ 531.406 Creditable service.

* * * * *

(b) * * *

(2) * * *

(i) Two workweeks in the waiting period for steps 2, 3, and 4 or for the next higher rate within the grade (as defined in § 531.403) for a GM employee (as defined in § 531.202) whose rate of basic pay is less than the rate of basic pay for step 4 of the applicable grade;

(ii) Four workweeks in the waiting period for steps 5, 6, and 7 or for the next higher rate within the grade (as defined in § 531.403) for a GM employee (as defined in § 531.202) whose rate of basic pay is equal to or greater than the rate of basic pay for step 4 of the applicable grade, but less than the rate of basic pay for step 7 of the applicable grade; and

(iii) Six workweeks in the waiting period for steps 8, 9, and 10 or for the next higher rate within the grade (as defined in § 531.403) for a GM employee (as defined in § 531.202) whose rate of basic pay is equal to or greater than the rate of basic pay for step 7 of the applicable grade.

41. In § 531.502, the definition of *quality step increase* is revised to read as follows:

§ 531.502 Definitions.

* * * * *

Quality step increase is synonymous with the term "step increase" used in section 5336 of title 5, United States Code and means an increase in an employee's rate of basic pay from one step or rate of the grade of his or her position to the next higher step of that grade or next higher rate within the grade (as defined in § 531.403) in accordance with section 5336 of title 5, United States Code, section 4 of Public Law 103–89, and this subpart.

PART 536—GRADE AND PAY RETENTION

42. The authority citation for part 536 is revised to read as follows:

Authority: 5 U.S.C. 5361–5366; sec. 7202(f) of the Omnibus Budget Reconciliation Act of 1990 (Pub. L. 101–508), 104 Stat. 1338–336; sec. 4 of the Performance Management and Recognition System Termination Act of 1993 (Pub. L. 103–89), 107 Stat. 981;

§ 536.307 also issued under 5 U.S.C. 552, Freedom of Information Act, Pub. L. 92–502.

Subpart A—Definitions; Coverage and Applicability

43. In § 536.102, paragraph (1) of the definition of *representative rate* is revised to read as follows:

§ 536.102 Definitions.

* * * * *

Representative rate means:

(1) The fourth step of the grade in the case of a position under the General Schedule or the individual's rate under the Senior Executive Service or a position subject to the senior-level pay authority under 5 U.S.C. 5376;

* * * * *

44. In § 536.205, paragraph (a)(2) is revised to read as follows:

§ 536.205 Determination of rate of basic pay.

(a) * * *

(2) The rate of basic pay from the applicable rate schedule for the grade and step (except as provided by § 531.204(d)(4) of this chapter) held by the employee before the movement, or

* * * * *

45. Section 536.308 is added to read as follows:

§ 536.308 Applicability of retained grade.

(a) Except as provided in paragraph (b) of this section, when an employee is entitled to grade retention, the retained grade will be treated as the employee's grade for all purposes, including pay and pay administration, retirement, life insurance, and eligibility for training.

(b) The retained grade will not be used—

(1) In any reduction-in-force procedure;

(2) To determine whether an employee has been demoted for the purpose of terminating grade or pay retention;

(3) To determine whether an employee is covered by section 4 of Public Law 103–89; or

(4) To determine whether an employee is exempt or nonexempt from the Fair Labor Standards Act of 1938 (as amended).

PART 540—PERFORMANCE MANAGEMENT AND RECOGNITION SYSTEM

46. Part 540 is removed.

PART 575—RECRUITMENT AND RELOCATION BONUSES; RETENTION ALLOWANCES; SUPERVISORY DIFFERENTIALS

47. The authority citation for part 575 continues to read as follows:

Authority: 5 U.S.C. 1104(a)(2), 5753, 5754, and 5755; sec. 302 and 404 of the Federal Employees Pay Comparability Act of 1990 (Pub. L. 101–509) 104 Stat. 1462 and 1466, respectively; E.O. 12748.

48. In § 575.102, paragraph (a)(1) is revised to read as follows:

§ 575.102 Delegation of authority.

(a) * * *

(1) A General Schedule position paid under 5 U.S.C. 5332;

* * * * *

49. In § 575.202, paragraph (a)(1) is revised to read as follows:

§ 575.202 Delegation of authority.

(a) * * *

(1) A General Schedule position paid under 5 U.S.C. 5332;

* * * * *

50. In § 575.302, paragraph (a)(1) is revised to read as follows:

§ 575.302 Delegation of authority.

(a) * * *

(1) A General Schedule position paid under 5 U.S.C. 5332;

* * * * *

51. In § 575.402, paragraph (a)(1) is revised to read as follows:

§ 575.402 Delegation of authority.

(a) * * *

(1) In a General Schedule position paid under 5 U.S.C. 5332; and

* * * * *

PART 591—ALLOWANCES AND DIFFERENTIALS

52. The authority citation for subpart B of part 591 continues to read as follows:

Authority: 5 U.S.C. 5941; E.O. 10000, 3 CFR, 1943–1948 Comp., p. 792; E.O. 12510, 3 CFR, 1985 Comp., p. 338.

53. In § 591.203, paragraph (a)(1) is revised to read as follows:

§ 591.203 Agencies and employees covered.

(a) * * *

(1) General Schedule (including employees in positions authorized by § 213.3102(w) of this chapter whose rates of basic pay are established under the General Schedule).

* * * * *

PART 595—PHYSICIANS' COMPARABILITY ALLOWANCES

54. The authority citation for part 595 continues to read as follows:

Authority: 5 U.S.C. 5948; E.O. 12109, 44 FR 1067, Jan. 3, 1979.

55. In § 595.102, paragraph (b) is removed and paragraph (c) is redesignated as paragraph (b).

PART 771—AGENCY ADMINISTRATIVE GRIEVANCE SYSTEM

56. The authority citation for part 771 continues to read as follows:

Authority: 5 U.S.C. 1302, 3301, 3302, 7301; E.O. 9830, 3 CFR 1943—1948 Comp., pp.

606–624; E.O. 11222, 3 CFR 1964—1969 Comp., p. 306.

57. In § 771.105, paragraphs (b)(7), (b)(9), and (c)(3) are revised to read as follows:

§ 771.105 Grievance coverage.

* * * * *

(b) * * *

(7) The substance of elements and performance standards;

* * * * *

(9) A decision to grant or not to grant a Senior Executive Service pay rate increase; or a decision to grant or not to grant a pay rate increase under section 5376 of title 5, United States Code, and part 534, subpart E of this chapter;

* * * * *

(c) * * *

(3) A matter meeting the definition of a grievance but in which the employee files a complaint or other challenge under another review procedure, reconsideration, or dispute resolution process within the agency.

[FR Doc. 93–30581 Filed 12–14–93; 8:45 am]

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 905

[Docket No. FV93–905–4–IFR]

Oranges, Grapefruit, Tangerines, and Tangelos Grown in Florida; Relaxation of Gift Fruit Exemption Provisions

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: This rule relaxes handling requirements to permit handlers to increase shipments of gift packages of Florida citrus fruit to individuals and distributors, under specific conditions. This rule will enable handlers to ship greater quantities of gift fruit to meet market needs.

DATES: Effective December 9, 1993. Comments which are received by January 14, 1994, will be considered prior to issuance of any final rule.

ADDRESSES: Interested persons are invited to submit written comments concerning this rule to: Docket Clerk, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2523–S, Washington, DC 20090–6456. Three copies of all written material shall be submitted, and they will be made available for public inspection at the office of the Docket Clerk during regular business hours. All comments should reference the docket number, date, and page number of this issue of the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Gary D. Rasmussen, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2523–S, Washington, DC 20090–6456; telephone: 202–720–5331; or William G. Pimental, Southeast Marketing Field Office, USDA/AMS, P.O. Box 2276, Winter Haven, Florida 33883; telephone: 813–299–4770.

SUPPLEMENTARY INFORMATION: This interim final rule is issued under Marketing Agreement and Marketing Order No. 905 (7 CFR part 905) regulating the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida, hereinafter referred to as the order. This order is effective under the Agricultural Marketing Agreement Act of 1937, as amended [7 U.S.C 601–674], hereinafter referred to as the Act.

The Department is issuing this rule in conformance with Executive Order 12866.

This interim final rule has been reviewed under Executive Order 12778, Civil Justice Reform. This interim final rule is not intended to have retroactive effect. This interim final rule will not preempt any state or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 8c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and requesting a modification of the order or to be exempted therefrom. A handler is afforded the opportunity for a hearing on the petition. After the hearing, the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction in equity to review the Secretary's ruling on the petition, provided a bill in equity is filed not later than 20 days after the date of the entry of the ruling.

Pursuant to the requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are about 100 Florida citrus handlers subject to regulation under the marketing order covering oranges, grapefruit, tangerines, and tangelos grown in Florida, and about 11,000 producers of these citrus fruits in Florida. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than $500,000, and small agricultural service firms are defined as those whose annual receipts are less than $3,500,000. A minority of these handlers and a majority of the producers may be classified as small entities.

The Citrus Administrative Committee (committee) met November 16, 1993, and unanimously recommended this action. The committee meets prior to and during each season to review the rules and regulations effective on a continuous basis for citrus fruit regulated under the order. Committee meetings are open to the public, and interested persons may express their views at these meetings. The Department reviews committee recommendations and information, as well as information from other sources, and determines whether modification, suspension, or termination of the rules and regulations would tend to effectuate the declared policy of the Act.

Section 905.140 (7 CFR 905.140) provides the terms and conditions under which handlers can ship fruit in gift packages exempt from handling regulations in effect under §§ 905.52 and 905.53 of the order. Certain gift fruit packages are exempted from such regulations, since they contain fruit of mixed varieties and non-fruit items, and thus, would not meet the grade and size requirements of the handling regulations. Currently, handlers may only ship one or two gift packages per day exempt from such regulations, depending on the circumstances, to individuals and distributors. This action increases the number of gift packages of fruit which handlers can ship under this exemption provision, enabling handlers to ship an unlimited number of packages of gift fruit to individuals and distributors, provided certain safeguards are met by the handler of the fruit.

These safeguards specify that each gift package must be individually addressed to the person using the fruit, and that gift packages shipped to any gift fruit distributor must either be individually addressed or marked "not for resale".

This action reflects the committee's and the Department's appraisal of the need to relax the exemption provisions for gift fruit shipments as specified. Such relaxation will enable handlers to ship more packages of gift fruit to meet consumer needs, exempt from grade and size requirements issued under the order. This action is in the interest of producers, handlers, distributors, and consumers, and is expected to increase returns to Florida citrus fruit growers. The Department's view is that this action will have a beneficial impact on Florida citrus fruit producers and handlers, since it will permit the industry to make additional gift fruit available to meet consumer needs.

Based on the above, the Administrator of the AMS has determined that this action will not have a significant economic impact on a substantial number of small entities.

After consideration of all relevant matter presented, the information and recommendations submitted by the committee, and other information, it is found that the relaxation as set forth below will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is also found and determined, upon good cause, that it is impracticable, unnecessary and contrary to the public interest to give preliminary notice prior to putting this rule into effect, and that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register** because: (1) This action relaxes the provisions governing the shipment of gift fruit grown in Florida; (2) Florida citrus fruit handlers are aware of this action which was unanimously recommended by the committee at a public meeting and they will need no additional time to comply with the relaxed requirements; (3) shipment of the 1993–94 season Florida citrus fruit crop is currently in progress; (4) the gift fruit business is especially active at the end of the year during the holiday season, and handlers need the requirements relaxed promptly so they are of maximum benefit this season; and (5) the rule provides a 30-day comment period, and any comments received will be considered prior to any finalization of this interim final rule.

List of Subjects in 7 CFR Part 905

Grapefruit, Marketing agreements, Oranges, Reporting and recordkeeping requirements, Tangelos, Tangerines.

For the reasons set forth in the preamble, 7 CFR part 905 is amended as follows:

PART 905—ORANGES, GRAPEFRUIT, TANGERINES, AND TANGELOS GROWN IN FLORIDA

1. The authority citation for 7 CFR part 905 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. Section 905.140 is revised to read as follows:

§ 905.140 Gift packages.

Any handler may, without regard to the provisions of §§ 905.52 and 905.53 and the regulations issued thereunder, ship any varieties for the following purpose and types of shipment:

(a) To any person gift packages containing such varieties: *Provided*, That such packages are individually addressed to such person, and shipped directly to the addressee for use by such person other than for resale; or

(b) to any individual gift package distributor of such varieties to be handled by such distributor: *Provided*, That such person is the original purchaser and the gift packages are individually addressed or marked "not for resale". This exemption does not apply to "commercially handled" shipments for resale.

Dated: December 9, 1993.

Robert C. Keeney,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 93–30527 Filed 12–14–93; 8:45 am]

BILLING CODE 3410–02–P

FEDERAL RESERVE SYSTEM

12 CFR Part 265

[Docket No. R–0819]

Rules Regarding Delegation of Authority

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board is amending its rule regarding delegation of authority for determining inconsistencies between state and federal laws to authorize the Director of the Division for Consumer and Community Affairs to make such determinations for the Truth in Savings Act and Regulation DD.

EFFECTIVE DATE: December 3, 1993.

FOR FURTHER INFORMATION CONTACT: W. Kurt Schumacher, Staff Attorney (202) 452–2412 or (202) 452–3667, Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System. For the hearing impaired *only*, Telecommunications Device for the Deaf (TDD), Dorothea Thompson, at (202) 452–3544, Board of Governors of the Federal Reserve System, 20th and C Streets, NW., Washington, DC 20551.

SUPPLEMENTARY INFORMATION:

Delegation of Preemption Authority to Director of the Division of Consumer and Community Affairs

Under 12 CFR 265.9, the Board has delegated certain functions to the Director of the Division of Consumer and Community Affairs. Section 265.9(c) delegates to the Division Director the authority to determine whether a state law is inconsistent with several federal acts and their implementing regulations. Specifically, the Director has the authority to make determinations for the Truth in Lending Act (Regulation Z), the Electronic Fund Transfer Act (Regulation E), the Equal Credit Opportunity Act (Regulation B), and the Home Mortgage Disclosure Act (Regulation C). The Board is amending 12 CFR 265.9(c) to delegate to the Director the authority to determine inconsistencies between state law and the Truth in Savings Act. This delegation will enable the Director to determine whether a state law should be preempted by the federal law and the implementing regulation, in accordance with the preemption standards set forth in the Truth in Savings Act and Regulation DD.

Given the absence of any burden to affected persons, the Board is issuing this final rule without providing a public comment period and without prescribing at least 30 days' prior notice of the effective date of this final rule, according to 5 U.S.C. 553(b) and (d).

List of Subjects in 12 CFR Part 265

Authority delegations (Government agencies).

For the reasons set forth in the preamble, the Board is amending 12 CFR part 265 as follows:

PART 265—RULES REGARDING DELEGATION OF AUTHORITY

1. The authority citation for part 265 continues to read as follows:

Authority: 12 U.S.C. 248(i) and (k).

2. Section 265.9 is amended by removing the period at the end of paragraph (c)(4) and adding a semicolon

in its place, and by adding a new paragraph (c)(5) to read as follows:

§ 265.9 Functions delegated to the Director of Division of Consumer and Community Affairs.

* * * * *

(c) * * *

(5) Section 273 of the Truth in Savings Act (12 U.S.C. 4312) and Regulation DD (12 CFR part 230).

By order of the Board of Governors of the Federal Reserve System, December 3, 1993.

William W. Wiles,

Secretary of the Board.

[FR Doc. 93–30063 Filed 12–14–93; 8:45 am]

BILLING CODE 6210–01–F

DEPARTMENT OF COMMERCE

Bureau of Export Administration

15 CFR Parts 770, 772, and 788

[Docket No. 931115–3315]

Enforcement and Administrative Proceedings; Editorial Clarifications and Corrections

AGENCY: Bureau of Export Administration, Commerce.

ACTION: Final rule.

SUMMARY: This final rule makes certain editorial clarifications and corrections to the provisions in the Export Administration Regulations (EAR) on export enforcement and administrative proceedings. The changes made by this rule do not affect any of the requirements concerning export enforcement and administrative proceedings. In addition, these changes will not affect the paperwork burden on exporters.

EFFECTIVE DATE: This rule is effective December 15, 1993.

FOR FURTHER INFORMATION CONTACT: Willard Fisher, Office of Technology and Policy Analysis, Bureau of Export Administration, Telephone: (202) 482–3856.

SUPPLEMENTARY INFORMATION:

Background

This final rule revises certain provisions in parts 770, 772, and 788 of the Export Administration Regulations (EAR) that describe requirements concerning export enforcement and administrative proceedings. The changes made by this rule are strictly editorial in nature and serve to clarify or correct certain provisions amended by an interim rule published in the **Federal Register** on January 27, 1989 (54 FR 4004).

Specifically, this final rule makes the following changes.

(1) Section 770.15(c) is amended to clarify that the same criteria may be used to determine both whether U.S. export privileges shall be denied and for how long a period.

(2) Section 770.15(h) is amended to correct a typographical error in § 770.15(h) and add an address for the Office of the Chief Counsel for Export Administration.

(3) Section 772.1 is amended by revising the heading of paragraph (g), by revising paragraph (g)(1), and by removing paragraph (h)(1). These changes are being made because the January 27, 1989, interim rule revised § 772.1(h) when § 772.1(g) should have been revised, instead. This rule also corrects an error in § 772.1(g)(2), which incorrectly references paragraph (h)(1) of § 772.1 instead of paragraph (g)(1).

(4) Sections 788.19(g) and 788.23(e) are revised to clarify that the statutory right to judicial review is limited to the person subject to a temporary denial or to the charged party.

Rulemaking Requirements

1. This rule does not contain a collection of information subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

2. This rule does not contain policies with Federalism implications sufficient to warrant preparation of a Federalism assessment under Executive Order 12612.

3. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule by section 553 of the Administrative Procedure Act (5 U.S.C. 553) or by any other law, under section 3(a) of the Regulatory Flexibility Act (5 U.S.C. 603(a) and 604(a)) no initial or final Regulatory Flexibility Analysis has to be or will be prepared.

4. The provisions of the Administrative Procedure Act, 5 U.S.C. 553, requiring notice of proposed rulemaking, the opportunity for public participation, and a delay in the effective date, are inapplicable because this regulation involves a military or foreign affairs function of the United States. Section 13(b) of the EAA does not require that this rule be published in proposed form because this rule does not impose a new control. Further, no other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this rule.

Therefore, this regulation is issued in final form. Although there is no formal comment period, public comments are welcome on a continuing basis. Comments should be submitted to Willard Fisher, Office of Technology and Policy Analysis Bureau of Export Administration, Department of Commerce, P.O. Box 273, Washington, DC 20044.

List of Subjects

15 CFR Part 770

Administrative practice and procedure, Exports.

15 CFR Part 772

Exports, Reporting and recordkeeping requirements.

15 CFR Part 788

Administrative practice and procedure, Boycotts, Exports, Penalties.

Accordingly, parts 770, 772, and 788 of the Export Administration Regulations (15 CFR parts 730–799) are amended as follows:

1. The authority citation for 15 CFR parts 770, 772, and 788 is revised to read as follows:

Authority: Pub. L. 90–351, 82 Stat. 197 (18 U.S.C. 2510 *et seq.*), as amended; sec. 101, Pub. L. 93–153, 87 Stat. 576 (30 U.S.C. 185), as amended; sec. 103, Pub. L. 94–163, 89 Stat. 877 (42 U.S.C. 6212), as amended; secs. 201 and 201(11)(e), Pub. L. 94–258, 90 Stat. 309 (10 U.S.C. 7420 and 7430(e)), as amended; Pub. L. 95–223, 91 Stat. 1626 (50 U.S.C. 1701 *et seq.*); Pub. L. 95–242, 92 Stat. 120 (22 U.S.C. 3201 *et seq.* and 42 U.S.C. 2139a); sec. 208, Pub. L. 95–372, 92 Stat. 668 (43 U.S.C. 1354); Pub. L. 96–72, 93 Stat. 503 (50 U.S.C. App. 2401 *et seq.*), as amended (extended by Pub. L. 103–10, 107 Stat. 40); sec. 125, Pub. L. 99–64, 99 Stat. 156 (46 U.S.C. 466c); E.O. 11912 of April 13, 1976 (41 FR 15825, April 15, 1976); E.O. 12002 of July 7, 1977 (42 FR 35623, July 7, 1977), as amended; E.O. 12058 of May 11, 1978 (43 FR 20947, May 16, 1978; E.O. 12214 of May 2, 1980 (45 FR 29783, May 6, 1980); E.O. 12735 of November 16, 1990 (55 FR 48587, November 20, 1990), as continued by Notice of November 11, 1992 (57 FR 53979, November 13, 1992); E.O. 12867 of September 30, 1993 (58 FR 51747, October 4, 1993); and E.O. 12868 of September 30, 1993 (58 FR 51749, October 4, 1993).

PART 770—[AMENDED]

§ 770.15 [Amended]

2. In § 770.15(c), the phrase "and for how long" is added immediately following the phrase "In determining whether" at the beginning of the sentence.

§ 770.15 [Amended]

3. Section 770.15(h) is amended:

a. By revising the phrase "or position or responsibility" in the first sentence to read "or position of responsibility"; and

b. By revising the phrase "Office of the Chief Counsel for Export

Administration" at the end of the second sentence to read "Office of the Chief Counsel for Export Administration, room H3839, 14th Street and Constitution Avenue, NW., Washington, DC 20230".

PART 772—[AMENDED]

4. Section 772.1 is amended:

a. By revising the heading of paragraph (g);

b. By revising paragraph (g)(1);

c. By revising the reference "paragraph (h)(1) of this section" in the first sentence of paragraph (g)(2) to read "paragraph (g)(1) of this section"; and

d. By removing paragraph (h), as follows:

§ 772.1 General provisions.

* * * * *

(g) *Administrative action revoking export licenses*—(1) *General.* The Director, Office of Export Licensing, in consultation with the Director, Office of Export Enforcement, may revoke any export license, including any general license, issued or otherwise available to any person who has been convicted of a violation of the Export Administration Act, or any regulation, license, or order issued under the Act; any regulation, license, or order issued under the International Emergency Economic Powers Act (50 U.S.C. 1701–1706); 18 U.S.C. 793, 794, or 798; section 4(b) of the Internal Security Act of 1950 (50 U.S.C. 783(b)), or section 38 of the Arms Export Control Act (22 U.S.C. 2778).

* * * * *

PART 788—[AMENDED]

5. In § 788.19, paragraph (g) is revised to read as follows:

§ 788.19 Temporary denials.

* * * * *

(g) *Judicial review.* A person subject to the Under Secretary's written order may appeal to the United States Court of Appeals for the District of Columbia pursuant to 50 U.S.C. app. 2412(d)(3).

6. In § 788.23, paragraph (e) is revised to read as follows:

§ 788.23 Review by Under Secretary.

* * * * *

(e) *Appeals.* The charged party may appeal the Under Secretary's written order within 15 days to the United States Court of Appeals for the District of Columbia pursuant to 50 U.S.C. app. 2412(c)(3).

Dated: December 8, 1993.

Sue E. Eckert,

Assistant Secretary for Export Administration.

[FR Doc. 93–30590 Filed 12–14–93; 8:45 am]

BILLING CODE 3510–DT–P

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 230 and 239

[Release No. 33–7034]

Revisions to Forms SB–1, SB–2, Rule 455 of Regulation C and Rule 252 of Regulation A To Designate the Appropriate Filing Place for Registrants in the Geographical Jurisdictions Administered by the Boston, Fort Worth and Seattle District Offices

AGENCY: Securities and Exchange Commission.

ACTION: Final rules.

SUMMARY: The Commission is amending Forms SB–1, SB–2 and Regulation A to clarify the regional office filing alternative for registrants whose principal business operations are conducted in the districts covered by the Boston, Fort Worth and Seattle District Offices. These registrants must now file their Forms SB–1 and SB–2 registration statements and their Regulation A offering statements in the Northeast, Central, and Pacific Offices respectively, or in the Commission's headquarters office in Washington, DC.

EFFECTIVE DATE: January 1, 1994.

FOR FURTHER INFORMATION CONTACT: Richard K. Wulff, (202) 272–2644, Office of Small Business Policy, Division of Corporation Finance, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549.

SUPPLEMENTARY INFORMATION: Forms SB–1 [1] and SB–2 [2] are special registration statement forms for the use of small business issuers [3] to register their securities for sale under the Securities Act of 1933 ("Securities Act").[4] Currently, Forms SB–1 and SB–2 provide that a registration statement on the Form may be filed, at the registrant's election in the case of an initial public offering, either at the Commission's principal offices in Washington, DC, or in the Regional Office for the region closest to the registrant's principal place of business.[5] Regulation A provides an exemption from the registration requirements of the Securities Act for any offering made in accordance with the conditions of that exemption.[6] An offering statement containing certain specified information must be filed with the Commission. Rule 252 of Regulation A provides that the offering statement may be filed either in Washington, DC or with the Regional Office for the region in which the issuer's principal business operations are conducted or proposed to be conducted. Inasmuch as the Philadelphia Regional Office has not offered a full disclosure program, issuers within that jurisdiction have been offered the additional choice of filing with either the New York or the Atlanta Regional Offices.

Effective January 1, 1994, the Commission will no longer provide review operations in the Boston, Fort Worth or Seattle District Offices. This action is a result of funding constraints, the reallocation of Commission resources to other activities and the Commission's overall budgetary plan for the next three fiscal years. After that date, new filings on Forms SB–1 and SB–2, as well as filings under Regulation A, will no longer be accepted in these three offices. Filings pending in these offices on January 1st will continue to be processed by these offices until effectiveness, withdrawal or abandonment. Post-effective and post-qualification amendments to those filings, however, should be filed in the headquarters office in Washington, DC. New filings which may be filed by issuers geographically located in the three district offices which no longer accept filings for processing, should instead be filed in the Northeast (formerly the New York) Regional office, if the issuer is located in the Boston district; in the Central (formerly the Denver) Regional office, if the issuer is located in the Fort Worth district; and in the Pacific (formerly the Los Angeles) Regional office, if the issuer is located in the Seattle district. Issuers will continue to have the option of filing with the headquarters office in Washington, DC. Because the

[1] 17 CFR 239.9. This form is available to a small business issuer to raise up to $10 million in a 12 month period, under certain conditions.

[2] 17 CFR 239.10. The form is available to any small business issuer to raise any dollar amount of funds in cash. It may be used for repeat offerings as long as the issuer continues to meet the definition of small business issuer.

[3] A small business issuer is a United States or Canadian company that has not had more than $25 million in revenues during its most recent fiscal year provided that the aggregate market value for its outstanding securities held by non-affiliates does not exceed $25 million. See Rule 405, 17 CFR 230.405; Rule 12b–2, 17 CFR 240.12b–2.

[4] 15 U.S.C. 77a et seq.

[5] See also 17 CFR 230.455.

[6] 17 CFR 230.251–230.263.

Philadelphia District Office is under the jurisdiction of the Northeast Regional office, issuers located in this area should file with the Northeast office. The choice to file in Atlanta for issuers geographically located in the Philadelphia office's jurisdiction has been eliminated. No other change is being made in the regional processing system. Offices which have not offered a review program in the recent past, i.e., Salt Lake City, San Francisco, Philadelphia and Miami will not commence such a program, and filers in the areas subject to the jurisdiction of these offices continue to have the filing choice between Washington, DC and the supervising regional office, or in the case of Miami, in the Atlanta District Office.

The Commission finds that, pursuant to section 553(b) of the Administrative Procedure Act[7], this action relates solely to "agency organization, procedure, or practice" and that therefore notice and prior publication of the rules is unnecessary.

Statutory Basis, Text of Revisions and Authority

The amendments to the Commission's rules and forms are being made pursuant to sections 2, 3(b), 6, 7, 8, 10 and 19(a) of the Securities Act.

List of Subjects in 17 CFR Parts 230 and 239

Reporting and recordkeeping, Securities.

For the reasons set out in the preamble, title 17, chapter II of the Code of Federal Regulations is amended as follows:

PART 230—GENERAL RULES AND REGULATIONS, SECURITIES ACT OF 1933

1. The authority citation for part 230 continues to read in part as follows:

Authority: 15 U.S.C. 77b, 77f, 77g, 77h, 77j, 77s, 77sss, 78c, 78*l*, 78m, 78n, 78o, 78w, 78*ll*(d), 79t, 80a–8, 80a–29, 80a–30, and 80a–37, unless otherwise noted.

* * * * *

2. By revising paragraph (e) of § 230.252 to read as follows:

§ 230.252 Offering Statement.

* * * * *

(e) *Number of copies and where to file.* Seven copies of the offering statement, at least one of which is manually signed, shall be filed either with the Commission's Regional Office responsible for the region or district in which the issuer's principal business operations are conducted or are proposed to be conducted, or with the Commission's main office in Washington, DC. No filings are accepted by the Southeast Regional Office; issuers that conduct or propose to conduct principal business operations in the region or district subject to its supervision may file with the Atlanta District Office. An issuer which has or proposes to have its principal business operations in Canada shall file with the Regional Office nearest the place where the issuer's principal business operations are conducted or proposed to be conducted or with the Commission's main office in Washington, DC, unless the offering is to be made through a principal underwriter located in the United States, in which case the appropriate Regional Office is the office for the region or district in which such underwriter has its principal office. No filings may be made in any district office except the Atlanta District Office. While every effort is made to process filings where initially made, the Commission may reassign a filing to a different office for processing.

* * * * *

3. By revising § 230.455 to read as follows:

§ 230.455 Place of filing.

All registration statements and other papers filed with the Commission shall be filed at its principal office, except for statements of Form SB–1 (§ 239.9 of this chapter) and Form SB–2 (§ 239.10 of this chapter). Registration statements on Form SB–1 or SB–2 may be filed with the Commission either at its principal office or at the Commission's regional or district offices as specified in General Instruction A to each of those forms. Such material may be filed by delivery to the Commission through the mails or otherwise.

PART 239—FORMS PRESCRIBED UNDER THE SECURITIES ACT OF 1933

4. The authority citation for part 239 continues to read in part as follows:

Authority: 15 U.S.C. 77f, 77g, 77h, 77j, 77s, 77sss, 78c, 78*l*, 78m, 78n, 78o(d), 78w(a), 78*ll*(d), 79e, 79f, 79g, 79j, 79*l*, 79m, 79n, 79q, 79t, 80a–8, 80a–29, 80a–30 and 80a–37, unless otherwise noted.

* * * * *

5. Form SB–1 (§ 239.9) is amended by revising General Instruction A.2. to read as follows:

Note: The text of Forms SB–1 and SB–2 do not and the amendments will not appear in the Code of Federal Regulations.

Form SB–1

* * * * *

General Instructions

A. Use of Form and Place of Filing

* * * * *

2. If the small business issuer is not a reporting company, it should file the registration statement in the regional office responsible for the region or district that is closest to its principal place of business, or the Washington, D.C. office. However, no filings may be made in the Southeast Regional Office; issuers with principal places of business in the region or district subject to its jurisdiction may file in the Atlanta District Office. While every effort is made to process filings where initially made, the Commission may reassign a filing to a different office for processing.

* * * * *

6. Form SB–2 (§ 239.10) is amended by revising General Instruction A.2. to read as follows:

Form SB–2

* * * * *

General Instructions

A. Use of Form and Place of Filing

* * * * *

2. Initial public offerings on Form SB–2 should be filed in the regional office responsible for the region or district that is closest to its principal place of business, or the Washington, D.C. office. However, no filings may be made in the Southeast Regional Office; issuers with principal places of business in the region or district subject to its jurisdiction may file in the Atlanta District Office. While every effort is made to process filings where initially made, the Commission may reassign a filing to a different office for processing.

* * * * *

Dated: December 8, 1993.

By the Commission.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–30509 Filed 12–14–93; 8:45 am]

BILLING CODE 8010–01–M

[7] 5 U.S.C. 553(b).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 141

[Docket No. RM93–10–001; Order No. 558–A]

New Reporting Requirement Implementing Section 213(b) of the Federal Power Act and Supporting Expanded Regulatory Responsibilities under the Energy Policy Act of 1992, and Conforming and Other Changes to Form No. FERC–714; Order Denying Rehearing

Issued: December 9, 1993.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Final rule; Order denying rehearing.

SUMMARY: This order denies a request for rehearing of that portion of the Commission's final rule in this proceeding finding that the Commission has jurisdiction over certain electric cooperatives for transmission-information reporting purposes. Based on its review of the relevant statutory language and statutory purpose and of the pertinent case law, the Commission has concluded that the transmission-information reporting requirements apply to cooperatives which own or operate electric power transmission facilities used for wholesale sales.

EFFECTIVE DATE: The order denying rehearing is effective December 9, 1993.

FOR FURTHER INFORMATION CONTACT: Daniel L. Larcamp, Assistant General Counsel, Electric Rates and Corporate Regulation, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, (202) 208–2088.

SUPPLEMENTARY INFORMATION: In addition to publishing the full text of this document in the **Federal Register**, the Commission also provides all interested persons an opportunity to inspect or copy the contents of this document during normal business hours in room 3104, at 941 North Capitol Street NE., Washington, DC 20426.

The Commission Issuance Posting System (CIPS), an electronic bulletin board service, provides access to the texts of formal documents issued by the Commission. CIPS is available at no charge to the user and may be accessed using a personal computer with a modem by dialing (202) 208–1397. To access CIPS, set your communications software to use 300, 1200, or 2400 bps, full duplex, no parity, 8 data bits and 1 stop bit. CIPS can also be accessed at 9600 bps by dialing (202) 208–1781. The full text of the Final Rule will be available on CIPS for 30 days from the date of issuance. The complete text on diskette in WordPerfect format may also be purchased from the Commission's copy contractor, La Dorn Systems Corporation, also located in room 3104, 941 North Capitol Street NE., Washington, DC 20426.

Background

On September 30, 1993, the Commission issued a final rule establishing a new transmission-information filing requirement, FERC Form No. 715, and modifying the existing FERC Form No. 714 to require reporting of the hourly incremental cost of energy.[1] The final rule implemented section 213(b) of the Federal Power Act (FPA), which the Energy Policy Act of 1992 added to the FPA.[2] That provision requires the Commission to adopt a rule requiring "transmitting utilities" to file annually information concerning potentially available transmission capacity and known constraints.

The Commission found that it has jurisdiction to apply the new reporting requirements to certain electric cooperatives because the term "transmitting utility" encompasses the term "electric utility," and a cooperative is an "electric utility." In the preamble to the final rule, the Commission recognized the holdings of *Dairyland Power Cooperative*[3] and *Salt River Project Agr. Dist.* v. *FPC*[4] to the effect that the Commission did not have traditional FPA rate jurisdiction over cooperatives regulated by the Rural Electrification Administration. But the Commission rejected these decisions as inapposite. The Commission noted that these cases concerned whether a cooperative is a "public utility," but did not consider whether a cooperative is an "electric utility" as defined in section 3(22) of the FPA, as added by the Public Utility Regulatory Policies Act of 1978 (PURPA).[5] It was in PURPA that Congress first gave the Commission specific authority to order an electric utility to provide transmission service, authority that was later expanded in the Energy Policy Act.

Request for Rehearing

On October 22, 1993, Alabama Electric Cooperative, Inc. (Alabama Electric) filed a request for rehearing of Order No. 558. Alabama Electric challenges the Commission's finding that the Commission has "transmission jurisdiction" (jurisdiction to order an entity to provide transmission and to order entities to file transmission information) over cooperatives which own or operate transmission facilities used for wholesale sales. Alabama Electric states that *Dairyland* and *Salt River* are not inapposite because they reveal a Congressional intent not to subject cooperatives to the regulatory scheme for public utilities that Congress enacted in 1935. Alabama Electric maintains that Congress did not alter its intent when it enacted PURPA. It argues that, given the lack of jurisdiction over cooperatives that existed at the time when Congress enacted PURPA, it is implausible that Congress would have swept cooperatives within the Commission's jurisdictional ambit without explicitly stating its intention to do so. There is no explicit statutory statement to that effect.

Discussion

Any discussion of the Commission's jurisdiction must begin with the words of the statute. These words reveal a Congressional intention to grant the Commission broad transmission jurisdiction, including jurisdiction over cooperatives that meet the definition of transmitting utilities.

The Commission issued its transmission-information rule under section 213(b) of the FPA, as added by the Energy Policy Act. Section 213(b) directs the Commission to require "transmitting utilities" to provide potential transmission customers, state regulatory authorities, and the public with information concerning potentially available transmission capacity and known constraints. The definition of "transmitting utility" includes "any electric utility which owns or operates electric power transmission facilities which are used for the sale of energy at wholesale."[6] An "electric utility" includes "any person . . . which sells electric energy."[7] The statute specifically includes the Tennessee Valley Authority (TVA) within the definition of "electric utility" and specifically excepts Federal power marketing authorities from this definition.[8] Section 3(4) of the FPA defines "person" as an individual or corporation.[9] Section 3(3) of the FPA defines "corporation" to include "any organized group of persons, whether incorporated or not."[10] Order No. 558 noted that, because cooperatives fall within the definition of "corporation," they are persons that sell electric energy, and, as such, are "electric utilities" and are, therefore, "transmitting utilities" if they own or operate transmission facilities used for wholesale sales.

[1] New Reporting Requirement Implementing Section 213(b) of the Federal Power Act and Supporting Expanded Regulatory Responsibilities under the Energy Policy Act of 1992, and Conforming and Other Changes to Form No. FERC–714, Order No. 558, 58 FR 52420 (Oct. 8, 1993), 64 FERC ¶ 61,369 (1993).

[2] Pub. L. 102–486, 106 Stat. 2776 (1992)(codified at 16 U.S.C. 824*j*).

[3] 37 FPC 12 (1967) (*Dairyland*).

[4] 391 F2d. 470 (D.C. Cir.), *cert. denied*, 393 U.S. 857 (1968) (*Salt River*).

[5] Pub L. 95–617, 92 Stat. 3117 (1978) (codified at 16 U.S.C. 796 (22)). Section 3 (22) was also amended by the Energy Policy Act to add municipal utilities within the definition.

[6] 16 U.S.C. 796(23).

[7] 16 U.S.C. 796(22).

[8] *Id.*

[9] 16 U.S.C. 796(4).

[10] 16 U.S.C. 796(3).

Alabama Electric dismisses this analysis as "definitional hopscotch."[11] However, the fact is that Alabama Electric confuses jurisdiction over public utilities, which are subject to the full panoply of Commission jurisdiction under the FPA, and jurisdiction over electric utilities and transmitting utilities, which in some cases (*i.e.*, where they are not also public utilities) are subject only to limited jurisdiction, primarily under sections 210–213 and 316A of the FPA.

As a fundamental matter, Alabama Electric overlooks the very broad definitions of "person" and of "corporation," which were part of the FPA when Congress in PURPA added the definition of "electric utility." Had Congress *not* wanted cooperatives to be "electric utilities" for the purposes of the Commission's authority over transmission service, it would have said so in defining the term "electric utility."[12]

While Alabama Electric argues that the absence of a specific reference to cooperatives means that Congress meant to exclude them, we find that this is not a reasonable reading of the statute.[13] The definition of "electric utility," which explicitly uses the term "person," which, in turn, explicitly uses the term "corporation," is broadly inclusive. The term does not list every entity that it includes. It makes sense that Congress would specifically mention only those entities that were *not* to be included, or that would otherwise be excluded by the definitions already in the statute (municipalities, which were specifically excluded from the pre-existing definition of "corporation"). In these circumstances specific mention of TVA only demonstrates that Congress intended to *include* TVA when it was specifically *excluding* federal power marketing agencies. The inclusion of TVA does not demonstrate that Congress intended to exclude completely unrelated entities, such as cooperatives.

Alabama Electric disagrees with this view of the statute; it implies that because Congress explicitly included one entity, the TVA, within the FPA definition of "electric utility," it intended to exclude cooperatives from the definition.[14] But a term of inclusion is usually a term of enlargement rather than an expression of limitation.[15] Just because Congress included TVA does not mean it intended to *exclude* any other category of entities that fit within the definition that it was adopting. Nor need we infer from the definition the entities excluded from it. When Congress wanted to exclude certain entities from the term "electric utility," it did so explicitly, and the only entities that it excluded from the term were Federal power marketing agencies.[16] Congress likewise could have excluded cooperatives from the term, but chose not to.[17]

What Alabama Electric refers to as "definitional hopscotch"[18] is nothing more than the standard way to construe the meaning of a statute containing a series of definitions that depend on each other for clarity. It is well settled that:

> [S]tatutory definitions of words used elsewhere in the same statute furnish such authoritative evidence of legislative intent and meaning that they are usually given controlling effect * * *. Such internal legislative construction is of the highest value and prevails over * * * other extrinsic aids.[19]

The construction that the Commission has given to the terms "electric utility" and "transmitting utility" also results in no incongruity and does not distort or defeat the intent of PURPA or of the Energy Policy Act. Rather, it gives full effect not only to all of the necessary terms of PURPA and of the Energy Policy Act, but also to the statutes' purposes. The construction that the Commission has given to the terms "electric utility" and "transmitting utility" is thus not only a fair interpretation of the meaning of the words as found in the statute but also is consistent with Congress' purpose in enacting the statute, as discussed below.

Alabama Electric argues that, when Congress amended the Federal Power Act in PURPA, it was aware of *Dairyland* and *Salt River*, and thus knew that the Commission had no jurisdiction over cooperatives as "public utilities." According to Alabama Electric, the absence from the legislative history of any discussion of those cases indicates that Congress did not intend the Commission to have jurisdiction over cooperatives.[20]

We do not agree with this reading of the legislative history. In fact, the legislative history of PURPA suggests that, when Congress passed PURPA in 1978, it intended to include cooperatives within the Commission's transmission jurisdiction. PURPA resulted from Congress' awareness that the Nation was facing an energy shortage. One of the measures that Congress adopted to meet that shortage was to add section 211 to the FPA, giving the Commission specific authority, in certain instances, to order transmission service. In doing so, Congress did not exclude cooperatives.[21]

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[11] Alabama Electric Request for Rehearing at 2.

[12] Congress in the Energy Policy Act amended the FPA section 3(22) definition of "electric utility" by adding the phrase "(including any municipality)." This is because municipalities were explicitly excluded from the FPA definition of "corporation" and therefore were not "persons." Thus, just as Congress added "municipality," Congress could easily have clarified that cooperatives were not intended to be covered. The fact is that Congress did not.

[13] It is important to note that section 211 of the FPA, as added by PURPA, gave the Commission explicit authority to order electric utilities—not just public utilities—to wheel power, assuming the statutory criteria were met. Electric utilities encompass a broader group of entities than do public utilities. For example, while Congress did not explicitly state that the Commission's authority under section 211 extended to electric utilities located within the Electric Reliability Council of Texas, the Commission, based on the plain meaning of the section 3(22), concluded it has jurisdiction. *See* Central Power and Light Company, *et al.*, 6 FERC ¶ 61,065 at 61,219 (1979). Such a plain meaning approach is equally appropriate in this situation.

[14] Alabama Electric Request for Rehearing at 5 ("In enacting PURPA, Congress was explicit and unambiguous when it wanted to include an entity such as TVA within a definition.").

[15] Federal Land Bank of St. Paul v. Bismark Lumber Co., 314 U.S. 95, 99–100 (1941); Federal Election Comm. v. Mass. Citizens for Life, 769 F.2d 13, 17 (1st Cir. 1985), *aff'd*, 479 U.S. 238 (1986); American Fed. of Tel. & Radio Artists v. N.L.R.B., 462 F.2d 887, 889–90 (D.C. Cir. 1972); 2a Norman J. Singer, Sutherland, Statutes and Statutory Construction 152 (5th ed. 1992).

[16] 16 U.S.C. 796(22).

[17] Alabama Electric's arguments, carried to their logical conclusion, would require a finding not only that cooperatives which own or operate electric power transmission facilities used for the sale of electric energy at wholesale could not be required to provide information pursuant to section 213(b) or wheeling pursuant to section 211, but also that a large number of cooperatives could not apply for a section 211 wheeling order. Under Alabama Electric's reasoning, cooperatives that are not persons *generating* electric energy for sale for resale, *see* section 211(a), *i.e.* all distribution-only cooperatives, would not be able to seek a wheeling order under section 211. We do not believe that Congress intended to exclude hundreds of distribution-only cooperatives from the ability to seek a 211 order.

[18] Alabama Electric Request for Rehearing at 2.

[19] Sierra Club v. Clark, 755 F.2d 608, 613 (8th Cir. 1985) (quoting from 1A Norman J. Singer, Sutherland, Statutes and Statutory Construction 310 (4th ed. 1972)).

[20] Alabama Electric Request for Rehearing at 4–5.

[21] H.R. Rep. No. 1750, 95th Cong., 2d Sess. 67, 91–92 (1978); *see also id.* at 64, 66; H.R. Rep. No. 496, 95th Cong., 1st Sess., Part 4 at 151 (1977). The National Energy Act, an earlier version of the legislation that became PURPA, defined "electric utility" as "any person, State Agency or Federal Agency, which sells electric energy." This is precisely the definition of the term that appears in section 3(4) of PURPA. *Compare* H.R. Rep. No. 496, 95th Cong. 1st Sess., Part 4 at 133 *with* 16 U.S.C. 2602(4). The Senate Committee Report on the Public Utility Regulatory Policies Act of 1977 (the 1977 PURPA) tracks the description of cooperatives and their place in the electric utility industry that appears in the House Committee's report on H.R. 6831. The 1977 PURPA would also have given the Commission general authority to order transmission service. *See* S. Rep. No. 442, 95th Cong., 1st Sess. at 7–10, 32. Moreover, the House Committee

Congress' silence with respect to *Dairyland* and *Salt River* is not surprising; in PURPA, Congress was not giving the Commission authority over REA-funded cooperatives as public utilities. Rather, Congress gave the Commission new authority to order interconnection and wheeling, but (as discussed *infra*) also provided that the exercise of such authority, in and of itself, would not make such entities public utilities. There was, then, no need to address *Dairyland* and *Salt River*.

There is further evidence in the legislative history that this view is correct. The Senate's final debates on the PURPA Conference Report reveal that sections 210, 211, and 212 arose partly in response to a situation in which the Electric Reliability Council of Texas (ERCOT), which contains a major portion of the electric utilities in Texas, had operated in electrical isolation from the rest of the United States for a number of years. Several of the major utilities in ERCOT strongly opposed interconnection between ERCOT and the Southwest Power Pool.[22] Explaining the rationale behind the jurisdiction that Congress was giving to the Commission in sections 210, 211 and 212 to order interconnection and transmission service, Senator Domenici, a member of the Senate Energy and Natural Resources Committee and one of the conferees, stated:

> The old act clearly defined a limited area of jurisdiction, after which if . . . [the Federal Power Commission] had jurisdiction they had very broad jurisdiction with reference to the companies. Then . . . [ERCOT] comes along, and we are not willing to give the Federal Power Commission a broad jurisdiction for these kinds of cases over which they had no jurisdiction intrastate, totally intrastate distributors, for instance, as one; *REA as one*, municipally owned is another, but rather we are saying if that kind of non-jurisdictional situation exists the parties or a State commission can ask the Federal Power Commission to assume jurisdiction for the very limited purposes stated here, the interconnect we have described here so specifically.[23]

By the time Congress enacted PURPA in 1978, cooperatives were no longer merely radial operations, supplying electric energy to farms. Many, if not most, cooperatives were connected to the national transmission system and often received their electric energy from other utilities. When Congress decided to increase the efficiency of electric transmission and stimulate competition in the bulk power supply market, it noted the position of cooperatives within the electric utility industry and fashioned a definition of "electric utility" broad enough to include cooperatives among the entities over which the Commission has jurisdiction when ordering interconnection and transmission service. The Conference Report on PURPA highlighted this inclusion when it noted that PURPA gave the Commission certain "limited jurisdiction . . . for electric utilities . . . not otherwise subject to Commission jurisdiction under part II of the act."[24]

Alabama Power further argues that even if rural cooperatives were found to be entities described in sections 210, 211 and 212, section 201(b)(2) limits Commission jurisdiction to require compliance with the reporting requirements under section 213.[25] As discussed below, this argument is simply misplaced.

Sections 211 and 212, as enacted in PURPA, provided that certain entities, including any "electric utility," could seek an order requiring transmission services from any other "electric utility." Because electric utilities are not all public utilities otherwise subject to the Commission's jurisdiction under the FPA, section 211 broadened the category of entities over whom the Commission had transmission jurisdiction. However, Congress also added section 201(b)(2) to the FPA, to specify that *compliance* with an order under the Commission's new authority over interconnection and transmission services (sections 210, 211 and 212 of the FPA) "shall not make an electric utility or other entity subject to the jurisdiction of the Commission for any purposes other than [for purposes of carrying out such provision or for purposes of applying the FPA's enforcement authorities with respect to such provisions]."[26] In other words, Congress ensured that compliance with an order under 210, 211 or 212, in and of itself, does not subject an entity to the Commission's jurisdiction as a public utility. When Congress in the Energy Policy Act changed the potential target of a section 211 order from any "electric utility" to a "transmitting utility," it did not change section 201(b)(2).

Section 201(b)(2) provides Alabama Electric no help. The provision is important if an entity must comply with an order of the Commission under 210, 211 or 212. The Commission has not issued such an order to Alabama Electric. Moreover, even if it did issue such an order, and even if section 201(b)(2) were brought into play, this would have no implications regarding section 213 jurisdiction.[27]

In the Energy Policy Act, Congress directed the Commission to obtain information under section 213(b) precisely to aid implementation of the expanded authority to order transmission services under section 211.[28] Entities requesting transmission service orders are first required to make requests for transmission service to the transmitting utility, and the type of information that the Commission is gathering in Order No. 558 is the type of information that an entity may need to make such a request.[29] To carry out our responsibilities under section 213(b), the Commission must obtain this information from all transmitting utilities, including those which are electric cooperatives.

Based on our reading of the statutory language, the statutory purpose, the legislative history and the case law, we conclude that the new reporting requirements apply to cooperatives which own or operate electric power transmission facilities which are used for the sale of electric energy at wholesale. We will, therefore, deny Alabama Electric's request for rehearing.[30]

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surveyed the electric industry and described the place of cooperatives within the industry in considerable detail. *See* H.R. Rep. No. 496, 95th Cong. 1st Sess. Part 4, at 126–133 (1977).

[22] See Remarks of Senator Bartlett, Senator from Oklahoma, a member of the Senate Committee on Energy and Natural Resources and one of the conferees, regarding the provisions of sections 202 through 204 of PURPA, which became sections 210, 211, and 212 of the FPA, 124 Cong. Rec. S17808 (October 9, 1978).

[23] 123 Cong. Rec. S16376 (October 5, 1977)(emphasis supplied).

[24] H.R. Rep. No. 1750, 95th Cong., 2d Sess. 93 (1978); *see also id.* at 94–95.

[25] Request for Rehearing at 6.

[26] 16 U.S.C. 824(b)(2). See H.R. Rep. No. 1750, 95th Cong., 2nd Sess. at 95 (1978).

[27] Of course, a transmitting utility subject to section 213(b) that is not a public utility will not become a public utility by virtue of its compliance with section 213(b) or with our final rule.

[28] While the entities that could be subject to a section 211 order were narrowed, the Commission's ability to order transmission was made easier as a result of the Energy Policy Act amendments.

[29] Moreover, we note that in 1981 and 1982, in compliance with the Commission's qualifying facility regulations, Alabama Electric, as a "non-regulated *electric utility*," 16 U.S.C. 2602(9) (emphasis supplied), filed reports with the Commission, indicating how it would comply with section 210 of PURPA. See Alabama Electric Cooperative PURPA Implementation Plan, filed March 23, 1981, revised July 12, 1982, Docket No. IR–000–273. (Alabama Electric filed under a then-existing Commission regulation that appeared at 18 CFR 292.401(c). The Commission has since deleted this regulation). Alabama Electric apparently believed that it was an electric utility as defined in section 3(4) of PURPA (any person . . . which sells electric energy) but not an electric utility as defined in the FPA definitions.

[30] We also note that under § 141.51 of the Commission's regulations, 18 CFR 141.51, any electric utility, as defined under PURPA section

Continued

The Commission orders:

Alabama Electric's request for rehearing is hereby denied.

By the Commission.

Lois D. Cashell,

Secretary.

[FR Doc. 93–30549 Filed 12–14–93; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 177

[Docket No. 91F–0358]

Indirect Food Additives: Polymers

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of styrene block polymers with 1,3-butadiene, hydrogenated, as components of articles that contact food. This action is in response to a petition filed by W. R. Grace & Co.

DATES: Effective December 15, 1993; written objections and requests for a hearing by January 14, 1994.

ADDRESSES: Submit written objections to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Daniel N. Harrison, Center for Food Safety and Applied Nutrition (HFS–216), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–254–9500.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of September 30, 1991 (56 FR 49485), FDA announced that a food additive petition (FAP 0B4231) had been filed by W. R. Grace & Co. (Dewey and Almy Division), 55 Hayden Ave., Lexington, ME 02173, proposing that § 177.1210 *Closures with sealing gaskets for food containers* (21 CFR 177.1210) be amended to provide for the safe use of styrene block polymers with 1,3-butadiene, hydrogenated, as components of articles that contact food. The agency concludes that although the additive will be used exclusively in the manufacture of closures for food containers, it is more properly regulated under § 177.1810 *Styrene block polymers* (21 CFR 177.1810).

FDA has evaluated data in the petition and other relevant material and concludes that the proposed use of the food additive is safe, and that § 177.1810 should be amended as set forth below.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Center for Food Safety and Applied Nutrition by appointment with the information contact person listed above. As provided in 21 CFR 171.1(h), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

The agency has carefully considered the potential environmental effects of this action. FDA has concluded that the action will not have a significant impact on the human environment, and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding, contained in an environmental assessment, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

Any person who will be adversely affected by this regulation may at any time on or before January 14, 1994, file with the Dockets Management Branch (address above) written objections thereto. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 177

Food additives, Food packaging.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Director, Center for Food Safety and Applied Nutrition, 21 CFR part 177 is amended as follows:

PART 177—INDIRECT FOOD ADDITIVES: POLYMERS

1. The authority citation for 21 CFR part 177 continues to read as follows:

Authority: Secs. 201, 402, 409, 721 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 342, 348, 379e).

2. Section 177.1810 is amended in the table in paragraph (b) by redesignating entry 3 as entry 3 (i) and revising it and by adding new entry 3 (ii) to read as follows:

§ 177.1810 Styrene block polymers.

* * * * *

(b) Specifications:

3(4), 16 U.S.C. 2602(4), operating a control area must complete and file with the Commission the applicable schedules in FERC Form No. EIA–714. Alabama Electric has been filing those schedules for years and filed them again this year. Yet the PURPA definition of "electric utility" is virtually identical to the FPA definition of the same term, and there is no more legislative direction specific to the PURPA definition than to the FPA definition. Alabama Electric can hardly concede that it is an "electric utility" for the purposes of PURPA, and still maintain that it is not an "electric utility" under the virtually identical FPA definition of the term.

Styrene block polymers	Molecular weight (minimum)	Solubility	Glass transition points	Maximum extractable fraction in distilled water at specified temperatures, times, and thicknesses	Maximum extractable fraction in 50 percent ethanol at specified temperatures, times, and thicknesses
* * *	*	*	*	*	*
3. (i) Styrene block polymers with 1,3-butadiene, hydrogenated (CAS Reg. No. 66070–58–4): for use as articles or as components of articles that contact food of Types I, II, IV–B, VI, VII–B, and VIII identified in Table 1 in § 176.170(c) of this chapter.	16,000	do	-50 °C (-58 °F) to -30 °C (-22 °F) and 92 °C (198 °F) to 98 °C (208 °F).	0.002 mg/cm² (0.01 mg/in²) of surface at reflux temperature for 2 hr on a 0.071 cm (0.028 in) thick sample.	0.002 mg/cm² (0.01 mg/in²) of surface at 66 °C (150 °F) for 2 hr on a 0.071 cm (0.028 in) thick sample.
(ii) Styrene block polymers with 1,3-butadiene, hydrogenated (CAS Reg. No. 66070–58–4): for use at levels not to exceed 42.4 percent by weight as a component of closures with sealing gaskets that would contact food of Types III, IV–A, V, VII–A, VIII, and IX identified in Table 1 in § 176.170(c) of this chapter, and in condition of use D as described under Table 2 in § 176.170(c) of this chapter.	16,000	do	do	do	Do.

* * * * *

Dated: December 6, 1993.

Fred R. Shank,

Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 93–30431 Filed 12–14–93; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF JUSTICE

Parole Commission

28 CFR Part 2

Paroling, Recommitting, and Supervision Federal Prisoners: Prisoners Transferred to the United States Under Prisoner-Exchange Treaties

AGENCY: Parole Commission, Justice.

ACTION: Interim rule with request for public comment.

SUMMARY: The U.S. Parole Commission is amending its regulation concerning transfer treaty prisoners to suspend the requirement for a downward adjustment of 15 percent from the release date determined by the Commission under 18 U.S.C. 4106A and to remove a provision authorizing the Commission to reopen a decision if the prisoner is denied good time credit for prison misconduct. The amendment reflects the new policy of the U.S. Bureau of Prisons which now deducts foreign and domestic good time credits from the release date set by the Commission under 18 U.S.C. 4106A. The 15 percent downward adjustment was instituted by the Commission to compensate transferees, whose release dates are set pursuant to the sentencing guidelines, for the absence of the statutory good time deductions that would reduce the guideline sentences of similarly-situated U.S. Code offenders. An interim rule suspending that downward adjustment is necessary because, in three judicial circuits, federal appellate courts have now ruled that the U.S. Bureau of Prisons must deduct a transferee's foreign and domestic good time credits under 18 U.S.C. 4105(c)(1) from the release date established by the Commission.

DATES: Effective Date: The interim rule takes effect December 15, 1993. *Comments*: Comments must be submitted by February 14, 1994 in order to be received by the Commission prior to consideration of a final rule.

ADDRESSES: Send comments to Richard K. Preston, Office of General Counsel, U.S. Parole Commission, 5550 Friendship Blvd., Chevy Chase, Maryland 20815.

FOR FURTHER INFORMATION CONTACT: Richard K. Preston, Office of General Counsel, U.S. Parole Commission, Telephone (301) 492–5959.

SUPPLEMENTARY INFORMATION: The U.S. Parole Commission introduced the 15 percent downward adjustment in release dates for transferees and the reopening for institutional misconduct at 58 FR 30703 (May 27, 1993). The Commission announced that it was adopting a provision that required each release date determined under 18 U.S.C. 4106A contain at 15 percent downward adjustment recognizing that under the Bureau of Prisons policy in effect at the time, that all good time (both foreign and domestic) was deducted from the full term of the foreign sentence pursuant to 18 U.S.C. 4105. The Commission recognized that this interpretation of the law raised a legitimate concern about disparity between transferees and similarly-situated U.S. Code offenders as well as problems of discipline for the Bureau of Prisons. To ameliorate this disparity, the Commission adopted the 15 percent adjustment to reflect the potential good time that would reduce the guideline sentence of a similarly-situated U.S. Code offender. The rule also instituted a means for modifying the adjusted release date if the transferee violated prison rules. This reopening was found to be necessary because under the Bureau of Prisons policy then in effect, the withholding of good time credit pursuant to 18 U.S.C. 3624(b) only had a real impact in cases where the Commission had continued the transferee to expiration of his foreign sentence.

Since that time, three federal appellate courts (see *Ajala v. United States Parole Comm'n*, 997 F.2d 651 (9th Cir.), *reh'g denied*, _____ F.2d. _____ (9th Cir. Oct. 13, 1993); *Trevino-Casares v. United States Parole Comm'n*, 992 F.2d 1086 (10th Cir.), *reh'g denied*, _____ F.2d _____ (10th Cir. Aug. 10, 1993); *Asare v. United States Parole Comm'n*, 2 F.3d 540 (4th Cir. 1993)) have held that the Bureau of Prisons must deduct the offender's foreign and domestic service credits from the release date established by the

U.S. Parole Commission under 18 U.S.C. 4106A. These courts have found that Congress intended that a release date be treated as a new sentence for good time calculation purposes. In light of these decisions, the Bureau of Prisons has decided to apply the foreign and domestic good behavior credits to the release data set by the Commission.

Accordingly, for transferees in whose cases the Bureau of Prisons will apply foreign and domestic good time credits to the 4106A release date, the 15 percent downward adjustment must be suspended in order to avoid giving the transferee more credits than are deserved. Similarly, since the Bureau of Prisons can now adequately sanction a transferee for an institutional rule infraction, the Commission must suspend the reopening provision adopted in May, 1993, at 28 CFR 2.62(k)(7). At the present time, the Bureau of Prisons is correctly treating the original release date established by the Commission under the sentencing guidelines before the 15 percent adjustment as the baseline for service credit deductions. This interim rule confirms that practice, and precludes an underserved windfall for transfer treaty prisoners as well as prevents any double sanction for an institutional rule infraction.

Implementation

This rule will be applied at all transfer treaty hearings held after this date. The rule is also to be applied retroactively to prior determinations where the Commission adjusted the guidelines release date by 15 percent and/or reopened a case under 28 CFR 2.62(k)(7). The rule will not apply to transferees who have already been released and it will not serve to modify or reduce any period of supervised release that a transferee is now serving.

Executive Order 12291 and Regulatory Flexibility Statement

The U.S. Parole Commission has determined that this rule is not a major rule within the meaning of Executive Order 12291. This rule will not have a significant economic impact upon a substantial number of small entities, within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 605(b).

List of Subjects in 28 CFR Part 2

Administrative practice and procedure, probation and parole, prisoners.

Accordingly, the U.S. Parole Commission adopts the following amendment to 28 CFR Part 2.

The Amendments

1. The authority citation for 28 CFR part 2 continues to read as follows:

Authority: 18 U.S.C. 4203(a)(1) and 4204(a)(6).

2. 28 CFR Part 2, § 2.62 is amended by revising the second sentence of paragraph (a)(5) to read as set forth below.

3. 28 CFR Part 2, § 2.62 is further amended by revising paragraph (i)(2) to read as set forth below.

4. 28 CFR Part 2, § 2.62 is further amended by removing paragraph (k)(7) and by redesignating paragraph (k)(8) as new paragraph (k)(7).

§ 2.62 Prisoners transferred pursuant to treaty.

(a) *Applicability, jurisdiction and statutory interpretation.*

* * * * *

(5) * * * However, the release date shall be treated by the Bureau of Prisons as if it were the full term date of a sentence for the purpose of establishing a release date pursuant to 18 U.S.C. 4105(c) and 18 U.S.C. 3624(a). The Bureau of Prisons release date shall supersede the release date established by the Parole Commission under 18 U.S.C. 4106A and shall be the date upon which the transferee's period of supervised release commences.

* * * * *

(i) *Final decision.*

* * * * *

(2) Whenever the Bureau of Prisons applies service credits under 18 U.S.C. 4105 to a release date established by the Commission, the release date used by the Bureau of Prisons shall be the date established by the Parole Commission pursuant to the sentencing guidelines and not a date that resulted from any adjustment made to achieve comparable punishment with a similarly-situated U.S. Code offender. The application of service credits under 18 U.S.C. 4105 shall supersede any previous release date set by the Commission. The Commission may, for the purpose of facilitating the application of service credits by the Bureau of Prisons, reopen any case on the record to clarify the correct release date to be used, and the period of supervised release to be served.

* * * * *

Dated: November 5, 1993.

Edward D. Reilly, Jr.,

Chairman, U.S. Parole Commission.

[FR Doc. 93–30529 Filed 12–14–93; 8:45 am]

BILLING CODE 4410–01–M

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Parts 2619 and 2676

Valuation of Plan Benefits in Single-Employer Plans; Valuation of Plan Benefits and Plan Assets Following Mass Withdrawal; Amendments Adopting Additional PBGC Rates

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: This final rule amends the Pension Benefit Guaranty Corporation's ("PBGC's") regulations on Valuation of Plan Benefits in Single-Employer Plans (29 CFR part 2619) and Valuation of Plan Benefits and Plan Assets Following Mass Withdrawal (29 CFR part 2676). Part 2619 contains the interest assumptions that the PBGC uses to value benefits under terminating single-employer plans. Part 2676 contains the interest assumptions for valuations of multiemployer plans that have undergone mass withdrawal. The amendments set out in this final rule adopt the interest assumptions applicable to single-employer plans with termination dates in January 1994, and to multiemployer plans with valuation dates in January 1994.

EFFECTIVE DATE: January 1, 1994.

FOR FURTHER INFORMATION CONTACT: Harold J. Ashner, Assistant General Counsel, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005–4026, 202–778–8850 (as of December 20, 1993, use 202–326–4024) (202–778–8859 for TTY and TDD (as of January 24, 1994, use 202–326–4179)). (There are not toll-free numbers.)

SUPPLEMENTARY INFORMATION: This rule adopts the January 1994 interest assumptions to be used under the Pension Benefit Guaranty Corporation's ("PBGC's") regulations on Valuation of Plan Benefits in Single-Employer Plans (29 CFR part 2619, the "single-employer regulation") and Valuation of Plan Benefits and Plan Assets Following Mass Withdrawal (29 CFR part 2676, the "multiemployer regulation").

Part 2619 sets forth the methods for valuing plan benefits of terminating single-employer plans covered under title IV of the Employee Retirement Income Security Act of 1974, as amended ("ERISA"). Under ERISA section 4041(c), all single-employer plans wishing to terminate in a distress termination must value guaranteed benefits and "benefit liabilities", *i.e.*, all benefits provided under the plan as of the plan termination date, using the

formulas set forth in part 2619, subpart C. (Plans terminating in a standard termination may, for purposes of the Standard Termination Notice filed with PBGC, use these formulas to value benefit liabilities, although this is not required.) In addition, when the PBGC terminates an underfunded plan involuntarily pursuant to ERISA section 4042(a), it uses the subpart C formulas to determine the amount of the plan's underfunding. Part 2676 prescribes rules for valuing benefits and certain assets of multiemployer plans under sections 4219(c)(1)(D) and 4281(b) of ERISA.

Appendix B to part 2619 sets forth the interest rates and factors under the single-employer regulation. Appendix B to part 2676 sets forth the interest rates and factors under the multiemployer regulation. Because these rates and factors are intended to reflect current conditions in the financial and annuity markets, it is necessary to update the rates and factors periodically.

The PBGC issues two sets of interest rates and factors, one set to be used for the valuation of benefits to be paid as annuities and one set for the valuation of benefits to be paid as lump sums. The same assumptions apply to terminating single-employer plans and to multiemployer plans that have undergone a mass withdrawal. This amendment adds to appendix B to parts 2619 and 2676 sets of interest rates and factors for valuing benefits in single-employer plans that have termination dates during January 1994 and multiemployer plans that have undergone mass withdrawal and have valuation dates during January 1994.

For annuity benefits, the interest rates will be 5.90% for the first 25 years following the valuation date and 5.25% thereafter. For benefits to be paid as lump sums, the interest assumptions to be used by the PBGC will be 4.50% for the period during which benefits are in pay status and 4.0% during the period preceding the benefit's placement in pay status. (ERISA section 205(g) and Internal Revenue Code section 417(e) provide that private sector plans valuing lump sums under $25,000 must use interest assumptions at least as generous as those used by the PBGC for valuing lump sums (and for lump sums exceeding $25,000 are restricted to 120% of the PBGC interest assumptions).) The above annuity interest assumptions represent an increase (from those in effect for December 1993) of .30 percent for the first 25 years following the valuation date and are otherwise unchanged; the lump sum interest assumptions represent an increase (from those in effect for December 1993) of .25 percent for the period during which benefits are in pay status and are otherwise unchanged.

Generally, the interest rates and factors under these regulations are in effect for at least one month. However, the PBGC publishes its interest assumptions each month regardless of whether they represent a change from the previous month's assumptions. The assumptions normally will be published in the **Federal Register** by the 15th of the preceding month or as close to that date as circumstances permit.

The PBGC has determined that notice and public comment on these amendments are impracticable and contrary to the public interest. This finding is based on the need to determine and issue new interest rates and factors promptly so that the rates and factors can reflect, as accurately as possible, current market conditions.

Because of the need to provide immediate guidance for the valuation of benefits in single-employer plans whose termination dates fall during January 1994, and in multiemployer plans that have undergone mass withdrawal and have valuation dates during January 1994, the PBGC finds that good cause exists for making the rates and factors set forth in this amendment effective less than 30 days after publication.

The PBGC has determined that this action is not a "significant regulatory action" under the criteria set forth in Executive Order 12866, because it will not have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in Executive Order 12866.

Because no general notice of proposed rulemaking is required for this amendment, the Regulatory Flexibility Act of 1980 does not apply. See 5 U.S.C. 601(2).

List of Subjects

29 CFR Part 2619

Employee benefit plans, Pension insurance, and Pensions.

29 CFR Part 2676

Employee benefit plans and Pensions.

In consideration of the foregoing, parts 2619 and 2676 of chapter XXVI, title 29, Code of Federal Regulations, are hereby amended as follows:

PART 2619—[AMENDED]

1. The authority citation for part 2619 continues to read as follows:

Authority: 29 U.S.C. 1301(a), 1302(b)(3), 1341, 1344, and 1362.

2. In appendix B, Rate Set 3 is added to Table I, and a new entry is added to Table II, as set forth below. The introductory text of both tables is republished for the convenience of the reader and remains unchanged.

Appendix B to Part 2619—Interest Rates Used To Value Lump Sums and Annuities

Lump Sum Valuations

In determining the value of interest factors in the form $v^y{}_{:n}$ (as defined in § 2619.43(b)(1)) for purposes of applying the formulas set forth in § 2619.43 (b) through (i) and in determining the value of any interest factor used in valuing benefits under this subpart to be paid as lump sums (including the return of accumulated employee contributions upon death), the PBGC shall employ the values of i_t set out in Table I hereof as follows:

(1) For benefits for which the participant or beneficiary is entitled to be in pay status on the valuation date, the immediate annuity rate shall apply.

(2) For benefits for which the deferral period is y years (y is an integer and $0 < y \leq n_1$), interest rate i_1 shall apply from the valuation date for a period of y years; thereafter the immediate annuity rate shall apply.

(3) For benefits for which the deferral period is y years (y is an integer and $n_1 < y \leq n_1 + n_2$), interest rate i_2 shall apply from the valuation date for a period of $y - n_1$ years, interest rate i_1 shall apply for the following n_1 years; thereafter the immediate annuity rate shall apply.

(4) For benefits for which the deferral period is y years (y is an integer and $y > n_1 + n_2$), interest rate i_3 shall apply from the valuation date for a period of $y - n_1 - n_2$ years, interest rate i_2 shall apply for the following n_2 years, interest rate i_1 shall apply for the following n_1 years; thereafter the immediate annuity rate shall apply.

TABLE I
[Lump Sum Valuations]

Rate set	For plans with a valuation date		Immediate annuity rate (percent)	Deferred annuities (percent)				
	On or after	Before		i_1	i_2	i_3	n_1	n_2
. . .	.	.	.	.	.	.	.	.
3	1–1–94	2–1–94	4.50	4.00	4.00	4.00	7	8

Annuity Valuations

In determining the value of interest factors of the form $v^{0;n}$ (as defined in § 2619.49(b)(1)) for purposes of applying the formulas set forth in § 2619.49 (b) through (i) and in determining the value of any interest factor used in valuing annuity benefits under this subpart, the plan administrator shall use the values of i_t prescribed in Table II hereof.

The following table tabulates, for each calendar month of valuation ending after the effective date of this part, the interest rates (denoted by $i_1, i_2, \ldots$, and referred to generally as i_t) assumed to be in effect between specified anniversaries of a valuation date that occurs within that calendar month; those anniversaries are specified in the columns adjacent to the rates. The last listed rate is assumed to be in effect after the last listed anniversary date.

TABLE II
[Annuity Valuations]

For valuation dates occurring in the month—	The values of i_t are:					
	i_t	for t =	i_t	for t =	i_t	for t =
. . .	.	.	.	.	.	.
January 1994	.0590	1–25	.0525	>25	N/A	N/A

PART 2676—[AMENDED]

3. The authority citation for part 2676 continues to read as follows:

Authority: 29 U.S.C. 1302(b)(3), 1399(c)(1)(D), and 1441(b)(1).

4. In appendix B, Rate Set 3 is added to Table I, and a new entry is added to Table II, as set forth below. The introductory text of both tables is republished for the convenience of the reader and remains unchanged.

Appendix B to Part 2676—Interest Rates Used To Value Lump Sums and Annuities

Lump Sum Valuations

In determining the value of interest factors of the form $v^{0;n}$ (as defined in § 2676.13(b)(1)) for purposes of applying the formulas set forth in § 2676.13(b) through (i) and in determining the value of any interest factor used in valuing benefits under this subpart to be paid as lump sums, the PBGC shall use the values of i_t prescribed in Table I hereof. The interest rates set forth in Table I shall be used by the PBGC to calculate benefits payable as lump sum benefits as follows:

(1) For benefits for which the participant or beneficiary is entitled to be in pay status on the valuation date, the immediate annuity rate shall apply.

(2) For benefits for which the deferral period is y years (y is an integer and $0<y\leq n_1$), interest rate i_1 shall apply from the valuation date for a period of y years; thereafter the immediate annuity rate shall apply.

(3) For benefits for which the deferral period is y years (y is in integer and $n_1<y\leq n_1+n_2$), interest rate i_2 shall apply from the valuation date for a period of $y-n_1$ years, interest rate i_1 shall apply for the following n_1 years; thereafter the immediate annuity rate shall apply.

(4) For benefits for which the deferral period is y years (y is an integer and $y>n_1+n_2$), interest rate i_3 shall apply from the valuation date for a period of $y-n_1-n_2$ years, interest rate i_2 shall apply for the following n_2 years, interest rate i_1 shall apply for the following n_1 years; thereafter the immediate annuity rate shall apply.

TABLE I
[Lump Sum Valuations]

Rate set	For plans with a valuation date		Immediate annuity rate (percent)	Deferred annuities (percent)				
	On or after	Before		i_1	i_2	i_3	n_1	n_2
. . .	.	.	.	.	.	.	.	.
3	1–1–94	2–1–94	4.50	4.00	4.00	4.00	7	8

Annuity Valuations

In determining the value of interest factors of the form $v^{0;n}$ (as defined in § 2676.13(b)(1)) for purposes of applying the formulas set forth in § 2676.13 (b) through (i) and in determining the value of any interest factor used in valuing annuity benefits under this subpart, the plan administrator shall use the values of i_t prescribed in the table below.

The following table tabulates, for each calendar month of valuation ending after the effective date of this part, the interest rates (denoted by $i_1, i_2, \ldots$, and referred to generally as i_t) assumed to be in effect

between specified anniversaries of a valuation date that occurs within that calendar month; those anniversaries are specified in the columns adjacent to the rates. The last listed rate is assumed to be in effect after the last listed anniversary date.

TABLE II

[Annuity Valuations]

For valuation dates occurring in the month—	The values of i_t are:					
	i_1	for t =	i_2	for t =	i_3	for t =
* * * * *						
January 1994	.0590	1–25	.0525	>25	N/A	N/A

Issued in Washington, DC, on this 13th day of December 1993.

Martin Slate,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 93–30679 Filed 12–14–93; 8:45 am]

BILLING CODE 7708–01–M

29 CFR Part 2621

Limitation on Guaranteed Benefits in Single-Employer Plans

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: This rule amends appendix A of the Limitation on Guaranteed Benefits regulation of the Pension Benefit Guaranty Corporation ("PBGC") by adding the maximum guaranteeable pension benefit that may be paid by the PBGC with respect to a plan participant in a single-employer pension plan that terminates in 1994. The maximum guaranteeable benefit is computed in accordance with the formula in section 4022(b)(3) of the Employee Retirement Income Security Act of 1974, which provides that the maximum guaranteeable benefit is based on the contribution and benefit base determined under section 230 of the Social Security Act. The latter number is adjusted annually, and that adjustment automatically changes the dollar amount of the maximum guaranteeable benefit paid by PBGC. The effect of this amendment is to advise plan participants and beneficiaries of the increased maximum guaranteeable benefit for 1994.

EFFECTIVE DATE: January 1, 1994.

FOR FURTHER INFORMATION CONTACT: Renae R. Hubbard, Special Counsel, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005–4026, 202–778–8850 (as of December 20, 1993, use 202–326–4024) (202–778–8859 for TTY and TDD (as of January 24, 1994, use 202–326–4179)). (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION: Section 4022(b) of the Employee Retirement Income Security Act of 1974, *as amended*, ("ERISA") provides for certain limitations on benefits guaranteed by the Pension Benefit Guaranty Corporation ("PBGC") in terminating single-employer pension plans covered under Title IV of ERISA. One of the limitations set forth in section 4022(b)(3) is a dollar ceiling on the amount of the monthly benefit that may be paid to a plan participant by the PBGC. Subparagraph (B) of section 4022(b)(3) provides that the amount of monthly benefit payable in the form of a life annuity beginning at age 65 shall not exceed "$750 multiplied by a fraction, the numerator of which is the contribution and benefit base (determined under section 230 of the Social Security Act) in effect at the time the plan terminates and the denominator of which is such contribution and benefit base in effect in calendar year 1974 [$13,200]". This formula is also set forth in § 2621.3(a)(2) of the PBGC's regulation entitled Limitation on Guaranteed Benefits in Single-Employer Plans (29 CFR part 2621).

The Social Security Amendments of 1977 added special increases to the contribution and benefit base. However, the amended Social Security Act specifically states that, for the purpose of section 4022(b)(3)(B) of ERISA, the contribution and benefit base for each year after 1976 will be the base that would have been determined for each year if the law in effect immediately before the amendment had remained in effect without change (the "old-law contribution and benefit base"). 42 U.S.C. 430(d) (1982). Section 10208 of the Omnibus Budget Reconciliation Act of 1989 (Public Law 101–239, enacted December 19, 1989) ("OBRA '89") amended section 230 of the Social Security Act to provide for the inclusion of certain deferred compensation in the determination of the contribution and benefit base for 1990 and future years. Each year the Social Security Administration determines, and notifies the PBGC of, the old-law contribution and benefit base to be used by the PBGC under these provisions.

The PBGC has been notified by the Social Security Administration that, under section 230 of the Social Security Act as amended by OBRA '89, $45,000 is the old-law contribution and benefit base that is to be used to calculate the PBGC maximum guaranteeable benefit for 1994. Accordingly, the formula under section 4022(b)(3)(B) of ERISA and 29 CFR 2621.3(a)(2) is: $750 multiplied by $45,000/$13,200. Thus, the maximum monthly benefit guaranteeable by the PBGC in 1994 is $2,556.82 per month in the form of a life annuity beginning at age 65. If a benefit is payable in a different form or begins at a different age, the maximum guaranteeable amount will be the actuarial equivalent of $2,556.82 per month.

Appendix A to part 2621 lists the maximum guaranteeable benefit payable by the PBGC to participants in single-employer plans that have terminated in each year from 1974 through 1993. This amendment updates appendix A for plans that terminate in 1994.

Because the maximum guaranteeable benefit is determined according to the formula in section 4022(b)(3)(B) of ERISA, and this amendment makes no change in its method of calculation but simply lists the 1994 maximum guaranteeable benefit amount for the public's knowledge, general notice of proposed rulemaking is not required. Moreover, because the 1994 maximum guaranteeable benefit is effective, under the statute, at the time that the Social Security contribution and benefit base is effective, *i.e.*, January 1, 1994, and is not dependent on the issuance of this regulation, the PBGC finds that good cause exists for making this amendment

effective less than 30 days after publication (5 U.S.C. 553).

The PBGC has determined that this action is not a "significant regulatory action" under the criteria set forth in Executive Order 12866 because it will not have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in Executive Order 12866.

Because no general notice of proposed rulemaking is required for this regulation, the Regulatory Flexibility Act of 1980 does not apply (5 U.S.C. 601(2)).

List of Subjects in 29 CFR Part 2621

Employee benefit plans, Pension insurance, and Pensions.

In consideration of the foregoing, part 2621 of subchapter C, chapter XXVI, title 29, Code of Federal Regulations, is hereby amended as follows:

PART 2621—LIMITATION ON GUARANTEED BENEFITS IN SINGLE-EMPLOYER PLANS

1. The authority citation for part 2621 continues to read as follows:

Authority: 29 U.S.C. 1302, 1322, 1322b.

2. Appendix A to part 2621 is amended by adding a new entry to read as follows: The introductory text is republished for the convenience of the reader and remains unchanged.

Appendix A to Part 2621—Maximum Guaranteeable Monthly Benefit

The following table lists by year the maximum guaranteeable monthly benefit payable in the form of a life annuity commencing at age 65 as described by § 2621.3(a)(2) to a participant in a plan that terminated in that year:

Year	Maximum guaranteeable monthly benefit
. . . . .	.
1994	2,556.82

Issued at Washington, DC, this 13th day of December, 1993.

Martin Slate,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 93–30678 Filed 12–14–93; 8:45 am]

BILLING CODE 7708–01–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 79, 80 and 85

[FRL–4783–9]

Registration of Fuels and Fuel Additives; Regulation of Fuels and Fuel Additives; Emissions Control System Performance Warranty Regulations and Voluntary Aftermarket Part Certification Program

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This final rule revises various penalty provisions in EPA's regulations for the registration of fuels and fuel additives, and regulations establishing controls on fuels and fuel additives. It also revises the penalty provision and corrects the address for EPA in EPA's regulations for the emissions control system performance warranty regulations and voluntary aftermarket part certification program. In both cases the revisions conform these regulatory penalty provisions to sections 211(d) and 205 of the Clean Air Act, as amended by the Clean Air Act Amendments of 1990. In addition, this rule corrects inadvertent errors and outdated statutory citations in the authority sections of some of the regulations.

EFFECTIVE DATE: This action will be effective on December 15, 1993; except for the revision to the authority section for 40 CFR part 79. The revision to the authority section for 40 CFR part 79 will be effective February 14, 1994, unless notice is received by January 14, 1994, that adverse or critical comments will be submitted.

ADDRESSES: Information related to these revisions may be found in the Public Docket No. A–93–38. The docket is located at the Air Docket, room M–1500, Waterside Mall, 401 M Street, SW., Washington, DC 20460. The docket may be inspected between 8:30 am and 12 noon and between 1:30 pm and 3:30 pm on weekdays. As provided by 40 CFR part 2, a reasonable fee may be charged for photocopying docket materials.

FOR FURTHER INFORMATION CONTACT: Caroline C. Ahearn, Attorney/Advisor, Field Operations and Support Division, (6406J), EPA, 401 M Street, SW., Washington, DC 20460. Telephone: (202) 233–9002.

SUPPLEMENTARY INFORMATION: This action revises the penalty provisions in EPA's regulations for the registration of fuels and fuel additives (registration regulations) (40 CFR part 79), controls on fuels and fuel additives (fuels regulations) (40 CFR part 80) and the emissions control system performance warranty regulations (performance warranty regulations) (40 CFR part 85, subpart V). The registration regulations require the submittal of certain information to EPA regarding new fuels and fuel additives and prohibit any fuel manufacturer from selling, offering for sale, or introducing into commerce such fuel or additive unless it has been registered by the Administrator. The fuels regulations establish requirements regarding: (i) The phasedown of lead in gasoline on a specified schedule as well as the filing of quarterly reports with EPA concerning the average lead content of gasoline produced during each quarter; (ii) unleaded fuel requirements with maximum limits for lead in unleaded gasoline, labelling requirements for pumps, fuel pump nozzle specifications and prohibitions regarding the misfueling of unleaded vehicles; (iii) summertime volatility limits for all gasoline sold after June 1989 based on the area of the country and the month; and (iv) standards for diesel fuel which limit the maximum sulfur content to 0.05 percent by weight beginning October 1, 1993. The performance warranty regulations require a vehicle manufacturer to repair, at no charge to the owner, any emission control device or system which causes a vehicle to fail an EPA approved emission short test and provides that it is a prohibited act not to comply with the terms and conditions of the emission performance warranty.

The current penalty provisions for the registration regulations and fuels regulations, 40 CFR 79.8 and 80.5, are consistent with the penalty provision stated in section 211(d) of the Clean Air Act prior to the enactment of the Clean Air Act Amendments of 1990, Public Law 101–549 (CAAA).

(1) Prior to the enactment of the Clean Air Act Amendments of 1990, section 211(d) of the Clean Air Act provided that:

> Any person who violates subsection (a) or (f) or the regulations prescribed under subsection (c) or who fails to furnish any information required by the Administrator under subsection (b) shall forfeit and pay to the United States a civil penalty of $10,000 for each and every day of the continuance of

such violation, which shall accrue to the United States and be recovered in a civil suit in the name of the United States, brought in the district where such person has his principal office or in any district in which he does business. The Administrator may, upon application therefor, remit or mitigate any forfeiture provided for in this subsection and he shall have authority to determine the facts upon all such applications.

However, section 211(d)(1) of the Clean Air Act as amended by the CAAA now provides that:

Any person who violates subsection (a), (f), (g), (k), (l), (m), or (n) of this section or the regulations prescribed under subsection (c), (h), (i), (k), (l), (m) or (n) of this section or who fails to furnish any information or conduct any tests required by the Administrator under subsection (b) of this section shall be liable to the United States for a civil penalty of not more than the sum of $25,000 for every day of such violation and the amount of economic benefit or savings resulting from the violation. Any violation with respect to a regulation prescribed under subsection (c), (k), (l), or (m) of this section which establishes a regulatory standard based upon a multi-day averaging period shall constitute a separate day of violation for each and every day in the averaging period. Civil penalties shall be assessed in accordance with subsections (b) and (c) of section 205.

The revised civil penalty provisions of section 211(d)(1) should apply for violations of the fuels regulations and the registration regulations as these regulations were promulgated under authority of section 211(a), (b), (c), (h) and (i) of the Clean Air Act. Today's action does no more than update the penalty provisions of these regulations to reflect the revised statutory provisions in section 211(d)(1) of the Act.

(2) Section 203(a)(4) of the Clean Air Act provides that it is a prohibited act:

* * * for any manufacturer of a new motor vehicle or new motor vehicle engine subject to standards prescribed under section 202 or Part C- * * * (D) to fail or refuse to comply with the terms and conditions of the warranty under section 207 (a) or (b) or the corresponding requirements of part C in the case of clean fuel vehicles with respect to any vehicle.

The emissions performance warranty regulations implement the warranty provided under section 207(b) of the Act. The current penalty provision for the performance warranty regulations, 40 CFR 85.2111, is also consistent with the penalty provision stated in section 205 of the Clean Air Act prior to the enactment of the CAAA. Prior to the enactment of the Clean Air Act Amendments of 1990, the Act provided under section 205 that:

Any person who violates paragraph (1), (2), or (4) of section 203(a) * * * shall be subject to a civil penalty of not more than $10,000 * * * Any such violation with respect to paragraph (1), (3), or (4) of section 203(a) shall constitute a separate offense with respect to each motor vehicle or motor vehicle engine.

However, section 205(a) as amended by the Clean Air Act Amendments of 1990 now includes the following provisions for civil penalties:

Any person who violates sections * * * 203(a)(4) * * * shall be subject to a civil penalty of not more than $25,000 * * * Any such violation with respect to paragraph * * * (4) of section 203(a) shall constitute a separate offense with respect to each motor vehicle or motor vehicle engine.

The revised civil penalty provisions of section 205(a) should apply for violations of the performance warranty regulations, as this penalty provision was promulgated under authority of section 203(a)(4) of the Clean Air Act. As with the fuels regulations, today's action does no more than update the penalty provisions of these regulations to reflect the revised statutory provisions in section 205(a) of the Act.

EPA finds that there is "good cause" under the Administrative Procedure Act, 5 U.S.C. 553(b) to promulgate all provisions of this rule, except for the revision to the authority section for 40 CFR part 79, without prior notice and public comment. The civil penalty provisions in the current regulations conflict with the Clean Air Act, as amended, and need to be changed to avoid confusion for interested parties. Today's action does no more than delete certain outdated, incorrect civil penalty provisions from the regulations and replace them with provisions that conform with the statute as amended. The updated regulations basically insert the correct statutory text into the regulations, without interpretation or illustration. The other changes to the regulations are simply ministerial in nature. In these circumstances EPA believes that prior notice and comment is unnecessary, and the delay resulting from notice and comment would therefore be contrary to the public interest. For the above reasons, EPA also finds that there is good cause under 5 U.S.C. 553(d) to make this rule effective upon publication.

EPA is publishing the revision to the authority section for 40 CFR part 79 without prior proposal because the agency views this as a noncontroversial amendment and anticipates no adverse comments. This revision will be effective February 14, 1994 unless, by January 14, 1994, notice is received that adverse or critical comments will be submitted.

If such notice is received, this revision to part 79's statutory authority will be withdrawn before the effective date by publishing a subsequent notice. If no such comments are received, the public is advised that this action will be effective February 14, 1994.

Administrative Requirements

The Agency has determined that this action is not a "major" rule as defined in Executive Order (E.O.) 12291. Therefore, a regulatory impact analysis has not been prepared. This regulation was submitted to the Office of Management and Budget (OMB) for further review under E.O. 12291. Any written OMB comments and any written EPA responses to such comments have been placed in the rulemaking docket.

This rulemaking does not include any new information collection requirements.

EPA believes that any impact that this regulatory revision may have on small entities is unavoidable given the straightforward nature of the statutory provisions that this rule implements. Further, the penalties imposed on such entities under this rule will be no more or no less relatively burdensome than penalties that would have been imposed under the current civil penalty provisions in the regulations, because the business size of the violator remains a consideration in any enforcement action or litigation that may result. Therefore, under today's action small entities will be at no more of a disadvantage than larger entities.

This regulation is atypical in that it is only applicable to violations of already established rules. In the normal course of business, it will have no impact on entities, large or small. This rule will only affect small entities if they do not comply with these regulations. If such entities do not comply, there is no remedy to lessen the impact (except as in so far as business size is a consideration) since these penalty provisions are mandated by statute.

EPA's authority for the actions promulgated in this action is provided by sections 114, 205, 211, and 301 of the Clean Air Act as amended, 42 U.S.C. 7414, 7524, 7545 and 7601(a).

Under section 307(b)(1) of the Clean Air Act, EPA finds that these regulations are of national applicability and therefore judicial review may be sought only in the United States Court of Appeals for the District of Columbia Circuit. Petitions for judicial review must be filed within sixty days from the date notice of this action appears in the **Federal Register.**

List of Subjects

40 CFR Part 79

Environmental protection, Fuel, Fuel Additives, Gasoline, Motor vehicle pollution, Penalties.

40 CFR Part 80

Environmental protection, Fuel additives, Gasoline, Motor vehicle pollution, Penalties, Reporting and recordkeeping requirements.

40 CFR Part 85

Confidential business information, Environmental protection, Imports, Labeling, Motor vehicle pollution, Reporting and recordkeeping requirements, Research, Warranties.

Dated: December 8, 1993.

Carol M. Browner,

Administrator.

For the reasons set forth in the preamble, parts 79, 80, and 85 of title 40 of the Code of Federal Regulations are amended to read as follows:

PART 79-REGISTRATION OF FUEL AND FUELS ADDITIVES

1. The authority citation for part 79 is revised to read as follows:

Authority: Sections 114, 211 and 301(a) of the Clean Air Act as amended, 42 U.S.C. 7414, 7545 and 7601(a).

2. Part 79 is amended by revising § 79.8 to read as follows:

§ 79.8 Penalties.

Any person who violates section 211(a) of the Act or who fails to furnish any information or conduct any tests required under this part shall be liable to the United States for a civil penalty of not more than the sum of $25,000 for every day of such violation and the amount of economic benefit or savings resulting from the violation. Civil penalties shall be assessed in accordance with paragraphs (b) and (c) of section 205 of the Act.

PART 80-REGULATION OF FUEL AND FUELS ADDITIVES

1. The authority citation for part 80 continues to read as follows:

Authority: Sections 114, 211 (c), (h), (i) and 301(a) of the Clean Air Act as amended, 42 U.S.C. 7414, 7545 (c), 7545(h)(i) and 7601(a).

2. Part 80 is amended by revising § 80.5 to read as follows:

§ 80.5 Penalties.

Any person who violates these regulations shall be liable to the United States for a civil penalty of not more than the sum of $25,000 for every day of such violation and the amount of economic benefit or savings resulting from the violation. Any violation with respect to a regulation proscribed under section 211(c), (k), (l) or (m) of the Act which establishes a regulatory standard based upon a multi-day averaging period shall constitute a separate day of violation for each and every day in the averaging period. Civil penalties shall be assessed in accordance with section 205(b) and (c) of the Act.

PART 85-CONTROL OF AIR POLLUTION FROM MOTOR VEHICLES AND MOTOR VEHICLE ENGINES

1. The authority citation for part 85 is revised to read as follows:

Authority: Sections 203, 205, 207, 208 and 301(a) of the Clean Air Act as amended, 42 U.S.C. 7522, 7524, 7541, 7542, and 7601 (a).

2. Section 85.2109 is amended by revising paragraph (a)(6) to read as follows:

§ 85.2109 Inclusion of warranty provisions in owners' manuals and warranty booklets.

(a) * * *

(6) An explanation that an owner may obtain further information concerning the emission performance warranty or that an owner may report violations of the terms of the Emission Performance Warranty by contacting the Director, Field Operations and Support Division (6406J), Environmental Protection Agency, 401 "M" Street, SW., Washington, DC 20460 (Attention: Warranty Claim).

* * * * *

3. Section 85. 2110 is amended by revising paragraph (b) to read as follows:

§ 85.2110 Submission of owners' manuals and warranty statements to EPA.

* * * * *

(b) All materials described in paragraph (a) of this section shall be sent to: Director, Field Operations and Support Division (6406J), Environmental Protection Agency, 401 "M" Street, SW., Washington, DC 20460 (Attention: Warranty Booklet).

4. Section 85.2111 is amended by revising the introductory text to read as follows:

§ 85.2111 Warranty enforcement.

The following acts are prohibited and may subject a manufacturer to up to a $25,000 civil penalty for each offense:

* * * * *

[FR Doc. 93-30570 Filed 12-14-93; 8:45 am]

BILLING CODE 6560-50-F

40 CFR Part 180

[OPP-300267A; FRL-4634-5]

RIN 2070-AB78

Ethylene Dibromide; Revocation of Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This document revokes pesticide tolerances for ethylene dibromide (EDB) resulting from its use as a soil and post-harvest fumigant. EPA is taking this action because uses have been cancelled.

EFFECTIVE DATE: This regulation becomes effective December 15, 1993.

ADDRESSES: Written objections, identified by the document control number, [OPP-300267A], may be submitted to: Hearing Clerk (A-110), Environmental Protection Agency, Rm. M3708, 401 M St., SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: By mail: Killian Swift, Registration Support Branch, Registration Division (H7505W), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: 6th Floor, CS #1, 2800 Crystal Drive, Arlington, VA 22202, (703)-308-8346.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of June 9, 1993 (58 FR 32319), EPA issued a proposal to revoke all tolerances for residues of the pesticide EDB per se or for residues of inorganic bromides (calculated as Br) resulting from use of EDB, as follows:

1. Tolerances listed in 40 CFR 180.126 for residues of inorganic bromides (calculated as Br) in or on the following raw agricultural commodities grown in soil treated with the nematicide EDB: asparagus, broccoli, carrots, cauliflower, sweet corn, sweet corn forage, cottonseed, cucumbers, eggplant, lettuce, lima beans, melons, okra, parsnips, peanuts, peppers, pineapple, potatoes, soybeans, strawberries, summer squash, sweet potatoes, and tomatoes.

2. The tolerance listed in 40 CFR 180.397(a) for residues of EDB per se in or on soybeans [grown in soil treated with the nematicide EDB].

3. The tolerances listed in 40 CFR 180.397(b) for residues of EDB per se in or on the following grains as a result of the use of EDB as a post-harvest fumigant prior to February 3, 1984: barley, corn, oats, popcorn, rice, rye, sorghum (milo), and wheat.

A tolerance for residues of EDB per se in or on mangoes at 0.03 part per

million (ppm) (40 CFR 180.397(c)) was established January 17, 1985, and expired September 30, 1987. Because this tolerance has expired, it is being removed from 40 CFR 180.397.

The document also proposed the revision of 40 CFR 180.126a, which sets forth a statement of policy regarding inorganic bromide residues in peanut hay and peanut hulls. Section 180.126a(b) currently references EDB and 1,2-dibromo-3-chloropropane (DBCP) as being possible sources of residues of inorganic bromides in peanut hay and hulls, resulting from use of those chemicals as nematicides on peanuts. However, neither EDB nor DBCP has been registered in the U.S. for use on peanuts for many years; all DBCP tolerances, including a tolerance for peanuts, were revoked January 15, 1986 (51 FR 1791; 51 FR 1785).

The only bromide pesticide which is still registered for use on peanuts is methyl bromide, whose tolerances are listed in 40 CFR 180.123. Therefore, to be a meaningful statement of policy, the text in § 180.126a needs to be revised to reflect that residues might result from the use of methyl bromide, rather than EDB or DBCP. EPA also proposed to renumber this section as 180.123a to follow closely the related regulation for inorganic bromide residues in peanuts and other commodities resulting from the use of methyl bromide.

The document also proposed to amend 40 CFR 180.3(c)(1) and (2) by removing references to EDB, which is no longer registered, and adding a discussion of methyl bromide, which is registered.

Since the registrations for EDB products for use as a soil fumigant were canceled more than 8 years ago, there is no anticipation of residues in crops due to environmental contamination. Consequently, no action levels will be recommended to replace the tolerances upon their revocation.

There were no comments or requests for referral to an advisory committee received in response to the proposed rule. Therefore, based on the data and information considered and discussed in detail in the proposed rule, the Agency concludes that the revocation of tolerances will protect the public health, and the revised regulations are established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this document in the **Federal Register**, file written objections with the Hearing Clerk, at the address given above (40 CFR 178.20). The objections submitted must specify the provisions of the regulation deemed objectionable and the grounds for the objections (40 CFR 178.25). Each objection must be accompanied by the fee prescribed by 40 CFR 180.33(i). If a hearing is requested, the objections must include a statement of the factual issue(s) on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the objector (40 CFR 178.27). A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is a genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established, resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issue(s) in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32).

This rulemaking has been reviewed under the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601-612), and it has been determined that it will not have any impact on a significant number of small businesses, small governments, or small organizations. The reasons for this conclusion are discussed in the June 9, 1993 proposal (58 FR 32319).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: November 26, 1993.

Lynn R. Goldman,

Assistant Administrator for Prevention, Pesticides and Toxic Substances.

Therefore, 40 CFR part 180 is amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 346a and 371.

2. In § 180.3, by revising paragraph (c), to read as follows:

§ 180.3 Tolerances for related pesticide chemicals.

* * * * *

(c)(1) Where tolerances for inorganic bromide in or on the same raw agricultural commodity are set in two or more sections in this part (example: §§ 180.123 and 180.199), the overall quantity of inorganic bromide to be tolerated from use of the same pesticide in different modes of application or from two or more pesticide chemicals for which tolerances are established is the highest of the separate applicable tolerances. For example, where the bromide tolerance on asparagus from methyl bromide commodity fumigation is 100 parts per million (40 CFR 180.123) and on asparagus from methyl bromide soil treatment is 300 parts per million (40 CFR 180.199), the overall inorganic bromide tolerance for asparagus grown on methyl bromide-treated soil and also fumigated with methyl bromide after harvest is 300 parts per million.

(2) Where tolerances are established in terms of inorganic bromide residues only from use of organic bromide fumigants on raw agricutural commodities, such tolerances are sufficient to protect the public health, and no additional concurrent tolerances for the organic pesticide chemicals from such use are necessary. This conclusion is based on evidence of the dissipation of the organic pesticide or its conversion to inorganic bromide residues in the food when ready to eat.

* * * * *

3. By adding § 180.123a as revised and redesignated from § 180.126a, to read as follows:

§ 180.123a Inorganic bromide residues in peanut hay and peanut hulls; statement of policy.

(a) Investigations by the Food and Drug Administration show that peanut hay and peanut shells have been used as feed for meat and dairy animals. While many growers now harvest peanuts with combines and leave the hay on the ground to be incorporated into the soil, some growers follow the practice of curing peanuts on the vines in a stack and save the hay for animal feed. Peanut shells or hulls have been used to a minor extent as roughage for cattle feed. It has been established that the feeding to cattle of peanut hay and peanut hulls containing residues of inorganic bromides will contribute considerable residues of inorganic bromides to the meat and milk.

(b) There are no tolerances for inorganic bromides in meat and milk to cover residues from use of such peanut hulls as animal feed. Peanut hulls containing residues of inorganic bromides from the use of methyl bromide are unsuitable as an ingredient in the feed of meat and dairy animals and should not be represented, sold, or used for that purpose.

§ 180.126 [Removed]

4. By removing § 180.126 *Inorganic bromides resulting from soil treatment*

with ethylene dibromide; tolerances for residues.

§ 180.397 [Removed]

5. Section 180.397 *Ethylene dibromide; tolerances for residues.*

[FR Doc. 93–30464 Filed 12–14–93; 8:45 am]

BILLING CODE 6560–50–F

OFFICE OF MANAGEMENT AND BUDGET

Office of Federal Procurement Policy

48 CFR Part 9903

Cost Accounting Standards Board; Applicability and Thresholds for Cost Accounting Standards Coverage; Correction

AGENCY: Cost Accounting Standards Board, Office of Federal Procurement Policy, OMB.

ACTION: Correction to final rule.

SUMMARY: This document contains corrections to the final rule revising applicability, thresholds and procedures for the application of Cost Accounting Standards to negotiated government contracts, which was published Thursday, November 4, 1993 (58 FR 58798).

EFFECTIVE DATE: November 4, 1993.

FOR FURTHER INFORMATION CONTACT: Richard C. Loeb, Executive Secretary, Cost Accounting Standards Board (telephone: 202–395–3254).

The final rule published Thursday, November 4, 1993, at 58 FR 58798 is corrected as follows.

Section 9903.201–2 [Corrected]

1. On page 58801, in the third column, in 9903.201–2(a)(2), in the fourth line, "exceed" should read "exceeded".

2. On the same page, in the same column, in 9903.201–2(b)(1), in the ninth line, after "Costs" insert a comma.

3. On the same page, in the same column, in 9903.201–2(b)(1), in the 12th line, after "rather" delete comma.

Section 9903.201–3 [Corrected]

4. On page 58802, in the second column, in 9903.201–3, Part II, of the solicitation provision, in the ninth line, "subcontractors" should read "subcontracts".

Section 9903.201–4 [Corrected]

5. On the same page, in the same column, section 9903.201–4 is correctly amended by adding a new instruction paragraph 5a. and text as follows:

5a. Section 9903.201–4 is further amended by revising paragraph (c)(2) and the heading and paragraph (a)(1) of the "Disclosure and Consistency of Cost Accounting Practices" clause to read as follows:

9903.201–4 Contract clauses.

* * * * *

(c) * * *

(2) The clause below requires the contractor to comply with CAS 9904.401, 9904.402, 9904.405, and 9904.406, * * *

Disclosure and Consistency of Cost Accounting Practices (Nov 1993)

(a) * * *

(1) Comply with the requirements of 9904.401, Consistency in Estimating, Accumulating, and Reporting Costs; 9904.402, Consistency in Allocating Costs Incurred for the Same Purpose; 9904.405, Accounting for Unallowable Costs; and 9904.406, Cost Accounting Standard—Cost Accounting Period. * * *

* * * * *

Dated: December 9, 1993.

Richard C. Loeb,

Executive Secretary, Cost Accounting Standards Board.

[FR Doc. 93–30543 Filed 12–14–93; 8:45 am]

BILLING CODE 3110–01–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 672 and 675

[Docket No. 920531–2221; I.D. 120693B]

Groundfish of the Gulf of Alaska; Groundfish Fishery of the Bering Sea and Aleutian Islands Area

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Pacific halibut and red king crab bycatch rate standards; request for comments.

SUMMARY: NMFS announces Pacific halibut and red king crab bycatch rate standards for the first half of 1994. Publication of this action is necessary to implement the bycatch rate standards under the vessel incentive program. These standards must be met by individual trawl vessel operators who participate in the Alaska groundfish trawl fisheries. The intent of this action is to reduce prohibited species bycatch rates and promote conservation of groundfish and other fishery resources.

DATES: Effective 12:01 a.m., Alaska local time (A.l.t.), January 20, 1994, through 12 midnight, A.l.t., June 30, 1994. Comments on this action must be received at the following address no later than 4:30 p.m., A.l.t., January 19, 1994.

ADDRESSES: Comments should be mailed to Ronald J. Berg, Chief, Fisheries Management Division, National Marine Fisheries Service, P.O. Box 21668, Juneau, Alaska 99802–1668, Attn: Lori Gravel, or be delivered to 709 West 9th Street, Federal Building, room 401, Juneau, Alaska.

FOR FURTHER INFORMATION CONTACT: Susan J. Salveson, Fisheries Management Division, Alaska Region, NMFS, 907–586–7228.

SUPPLEMENTARY INFORMATION: The domestic groundfish fisheries in the exclusive economic zone of the Bering Sea and Aleutian Islands Area (BSAI) and Gulf of Alaska (GOA) are managed by the Secretary of Commerce according to the Fishery Management Plan (FMP) for the Groundfish Fishery of the BSAI and the FMP for Groundfish of the GOA. The FMPs were prepared by the North Pacific Fishery Management Council (Council) under the authority of the Magnuson Fishery Conservation and Management Act. The FMPs are implemented by regulations for the U.S. fishery at 50 CFR parts 672 and 675. General regulations that also pertain to the U.S. fisheries appear at 50 CFR part 620.

Regulations at §§ 672.26 and 675.26 implement a vessel incentive program to reduce halibut and red king crab bycatch rates in the groundfish trawl fisheries. Under the incentive program, operators of trawl vessels must comply with Pacific halibut bycatch rate standards specified for the BSAI and GOA midwater pollock and "other trawl" fisheries, and the BSAI yellowfin sole and "bottom pollock" fisheries. Vessel operators also must comply with red king crab bycatch standards specified for the BSAI yellowfin sole and "other trawl" fisheries in Bycatch Limitation Zone 1, as defined in § 675.2. The fisheries governed by the incentive program are defined in regulations at §§ 672.26(b) and 675.26(b).

Regulations at §§ 672.26(c) and 675.26(c) require that halibut and red king crab bycatch rate standards for each fishery monitored under the incentive program be published in the **Federal Register**. Any vessel operator whose monthly bycatch rate exceeds the bycatch rate standard is in violation of the regulations implementing the incentive program. The standards are in effect for specified seasons within the 6-month periods of January 1 through June 30, and July 1 through December 31. Given that the GOA and BSAI

fisheries are closed to trawling from January 1 to January 20 of each year (§§ 672.23(e) and 675.23(d), respectively), the Regional Director is promulgating bycatch rate standards for the first half of 1994 effective from January 20, 1994, through June 30, 1994.

At its September 21–26, 1993 meeting, the Council reviewed average 1991–1993 bycatch rates experienced by vessels participating in the fisheries under the incentive program. Based on this and other information presented below, the Council recommended halibut and red king crab bycatch rate standards for the first half of 1994. These standards are set forth in Table 1. As required by § 672.26(c) and § 675.26(c), the Council's recommended bycatch rate standards for January through June are based on the following information:

(A) Previous years' average observed bycatch rates;

(B) Immediately preceding season's average observed bycatch rates;

(C) The bycatch allowances and associated fishery closures specified under § 672.20(f) and § 675.21;

(D) Anticipated groundfish harvests;

(E) Anticipated seasonal distribution of fishing effort for groundfish; and

(F) Other information and criteria deemed relevant by the Director of the Alaska Region, NMFS (Regional Director).

Bycatch Rate Standards for Pacific Halibut

With the exception of the GOA "other trawl" fishery, the Council's recommended halibut bycatch rate standards for the 1994 trawl fisheries are unchanged from those implemented in 1993. The recommended 1994 standards are based largely on anticipated seasonal fishing effort for groundfish species and 1991–1993 halibut bycatch rates observed in specified trawl fisheries. The Council recognized that the 1994 trawl fisheries do not start until January 20. Although the BSAI yellowfin sole fishery is further delayed until May 1 under regulations at § 675.23, the Council recommended at its September 1993 meeting that regulations be amended to allow this fishery to open on January 20. A proposed rule is being prepared by NMFS to implement the Council's recommended change to the opening date of the yellowfin sole fishery. However, a final rule implementing this change likely would not be effective before April 1994.

The recommended standard for the yellowfin sole fishery was maintained at 5.0 kilograms (kg) halibut per metric ton (mt) of groundfish for the first quarter of 1994 in the event that the yellowfin sole fishery is opened prior to May 1. No recent data on halibut bycatch rates in the yellowfin sole fishery are available for the first quarter of the year, although historical joint venture data suggest that bycatch rates during this period are low (less than 2 kg halibut/mt of groundfish). The Council also recommended that a bycatch rate standard of 5.0 kg halibut/mt of groundfish be maintained for the second quarter of 1994 even though the average halibut bycatch rate experienced by the yellowfin sole fishery during the second quarter of 1993 (13.78 kg halibut per mt groundfish) was almost three times the standard. The average halibut bycatch rate during subsequent quarters of 1993 remained at levels below the 5.0 kg standard.

The Council recommended to maintain the 1994 halibut bycatch rate standard at 5.0 kg halibut/mt of groundfish given that the average bycatch rates experienced by the yellowfin sole fishery during the second quarter of 1991 and 1992 (2.24 and 3.4 kg halibut/mt of groundfish, respectively) were below the recommended standard, indicating that vessel operators are able to fish at halibut bycatch rates lower than those experienced in 1993. Furthermore, a bycatch rate standard of 5 kg halibut/mt of groundfish will continue to encourage vessel operators to take action to avoid excessively high bycatch rates of halibut such as those experienced during the second quarter of 1993.

The halibut bycatch rate standard recommended for the BSAI and GOA midwater pollock fisheries (1 kg halibut/mt of groundfish) is higher than the bycatch rates normally experienced by vessels participating in these fisheries. The recommended standard is intended to encourage vessel operators to maintain off-bottom trawl operations and limit further bycatch of halibut in the pollock fishery when halibut bycatch restrictions at §§ 672.20(f)(1)(i) and 675.21(c)(1) prohibit directed fishing for pollock by vessels using nonpelagic trawl gear.

The recommended halibut bycatch rate standards for the BSAI "bottom pollock" fishery continue to approximate the average rates observed on trawl vessels participating in this fishery during the past three years. The recommended standard for the BSAI "bottom pollock" fishery during the first quarter of 1994 (7.5 kg halibut/mt of groundfish) is set at a level that approximates the average halibut bycatch rate experienced by vessels participating in the "bottom pollock" fishery during the first quarters of 1992 and 1993 (7.58 and 7.59 kg halibut/mt of groundfish, respectively).

Directed fishing allowances specified for the pollock "A" season likely will be reached before the end of the "A" season on April 15. Directed fishing for pollock by vessels participating in the inshore and offshore component fisheries is prohibited from the end of the pollock "A" season (April 15) until the beginning of the pollock "B" season (August 15). Vessels fishing under the Community Development Quota (CDQ) program (50 CFR § 675.27) could participate in a directed fishery for pollock between the "A" and "B" seasons, subject to other provisions governing the groundfish fisheries.

The Council recommended a 5.0 kg halibut/mt of groundfish bycatch rate standard for the second quarter of 1994 to accommodate any CDQ fishery that may occur after the first quarter of 1994. This standard approximates the average halibut bycatch rate experienced by vessels participating in the bottom pollock fishery during the second quarter of 1992 (4.3 kg halibut/mt of groundfish), but is higher than the second quarter rate experienced in 1993 (2.72 kg halibut/mt of grounfish).

A 30 kg halibut/mt of groundfish bycatch rate standard was recommended for the BSAI "other trawl" fishery. This standard is unchanged from 1992 and 1993. The Council recommended a 40 kg halibut/mt of groundfish bycatch rate standard for the GOA "other trawl" fishery. This bycatch rate standard is a 20 percent reduction from the standard implemented for this fishery during 1992 and 1993 (50 kg halibut/mt of groundfish). The Council's action on the 1994 bycatch rate standard for the GOA "other trawl" fishery was intended to support other management measures recommended by the Council at its September 1993 meeting. These measures are intended to address problems associated with the potential preemption of one segment of the GOA "other trawl" fishery by another caused by premature attainment of the halibut bycatch limit established for the GOA trawl fisheries. The recommended management measures include; (1) The apportionment of the GOA trawl halibut bycatch limit between "shallow water" and "deep water" trawl fisheries, (2) adjustment of directed fishing standards to change the way retainable bycatch of groundfish species are calculated, and (3) an adjustment of the season opening dates of the BSAI yellowfin sole and "other flatfish" fisheries from May 1 to January 20.

The bycatch rate standards recommended for the GOA and BSAI "other trawl" fisheries continue to be based on Council intent to simplify the incentive program by specifying a single bycatch rate standard for all trawl fisheries that are not specifically assigned a separate bycatch rate standard under regulations implementing the incentive program (i.e., the BSAI and GOA midwater pollock fisheries, and the BSAI yellowfin sole and bottom pollock fisheries), yet maintain the Council's objective of reducing halibut bycatch rates in the Alaska trawl fisheries.

Observer data collected from the 1993 GOA trawl fisheries (excluding the midwater pollock fishery) show first and second quarter halibut bycatch rates of 35 and 25 kg halibut/mt of groundfish, respectively. First and second quarter rates from 1992 were lower at 20 and 22 kg halibut/mt of groundfish, respectively. Observer data collected from the 1993 BSAI "other trawl" fisheries show first and second quarter halibut bycatch rates of 9 and 14 kg halibut/mt of groundfish, respectively. Observer data from 1992 showed similar rates. Although average bycatch rates experienced by the GOA and BSAI "other trawl" fisheries during the past two years do not approach the recommended standards of 40 and 30 kg halibut/mt of groundfish, respectively, the Council determined that these standards would provide an incentive to vessel operators to avoid excessively high halibut bycatch rates while participating in the GOA and BSAI trawl fisheries.

Bycatch Rates Standards for Red King Crab

The Council's recommended red king crab bycatch rate standard for the yellowfin sole and "other trawl" fisheries in Zone 1 of the Bering Sea subarea is 2.5 crab/mt of groundfish during the first half of 1994. This standard is the same as that recommended for 1992 and 1993.

With the exception of rock sole, little fishing effort for flatfish has occurred in Zone 1 during recent years because commercial concentrations of yellowfin sole and "other flatfish" normally occur north of this area by the time these fisheries open on May 1. As such, limited observer data exist for the yellowfin sole fishery in Zone 1 for the three-year period of 1991–1993. These data indicate average second quarter red king crab bycatch rates between 1.3 and 3.3 crab/mt of groundfish. During this same three year period, the first and second quarter bycatch rates of red king crab experienced by vessels participating in the "other trawl" fishery ranged from .02 to 2.39 crab/mt of groundfish. In recent years, some fishermen have experienced relatively high bycatch rates of halibut north of Zone 1 and have expressed a desire to explore fishing grounds in Zone 1 that may have lower halibut bycatch rates. However, fishermen also have expressed a reluctance to fish in Zone 1 because of possibly exceeding the red king crab bycatch rate standard. The total bycatch of red king crab by vessels participating in the 1993 trawl fisheries is estimated at 181,769 crab, or about 91 percent of the 200,000 crab bycatch limit established for the trawl fisheries in Zone 1. Recognizing that the red king crab bycatch limit will restrict bycatch amounts to specified levels, the Council maintained the 2.5 red king crab/mt of groundfish bycatch rate standard to support those fishermen who actively pursue alternative fishing grounds in an attempt to reduce halibut bycatch rates.

The Regional Director has determined that Council recommendations for bycatch rate standards are appropriately based on the information and considerations necessary for such determinations under § 672.26(c) and § 675.26(c). Therefore, the Regional Director concurs in the Council's determinations and recommendations for halibut and red king crab bycatch rate standards for the first half of 1994 as set forth in Table 1. These bycatch rate standards may be revised and published in the **Federal Register** when deemed appropriate by the Regional Director pending his consideration of the information set forth at §§ 672.26(c)(2)(v) and 675.26(c)(2)(v).

As required in regulations at §§ 672.26(c)(2)(iii) and 675.26(a)(2)(iii), the 1994 fishing months are specified as the following periods for purposes of calculating vessel bycatch rates under the incentive program:

Month 1: January 1 through January 29;
Month 2: January 30 through February 26;
Month 3: February 27 through April 2;
Month 4: April 3 through April 30;
Month 5: May 1 through May 28;
Month 6: May 29 through July 2;
Month 7: July 3 through July 30;
Month 8: July 31 through September 3;
Month 9: September 4 through October 1;
Month 10: October 2 through October 29;
Month 11: October 30 through December 3; and
Month 12: December 4 through December 31.

Classification

This action is taken under 50 CFR 672.26 and 675.26.

List of Subjects in 50 CFR Parts 672 and 675

Fisheries, Reporting and recordkeeping requirements.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: December 10, 1993.

David S. Crestin,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

TABLE 1—BYCATCH RATE STANDARDS, BY FISHERY AND QUARTER, FOR THE FIRST HALF OF 1994 FOR PURPOSES OF THE VESSEL INCENTIVE PROGRAM IN THE BSAI AND GOA

Fishery and quarter (Qt)	1994 bycatch standard
Halibut bycatch as kilogram (kg) of halibut/metric ton (mt) of groundfish catch	
BSAI Midwater pollock	
Qt 1	1.0
Qt 2	1.0
BSAI Bottom pollock	
Qt 1	7.5
Qt 2	5.0
BSAI Yellowfin sole	
Qt 1	5.0
Qt 2	5.0
BSAI Other trawl	
Qt 1	30.0
Qt 2	30.0
GOA Midwater pollock	
Qt 1	1.0
Qt 2	1.0
GOA Other trawl	
Qt 1	40.0
Qt 2	40.0
Zone 1 red king crab bycatch rates (number of crab/mt of groundfish catch)	
BSAI yellowfin sole	
Qt 1	2.5
Qt 2	2.5
BSAI Other trawl	
Qt 1	2.5
Qt 2	2.5

[FR Doc. 93–30540 Filed 12–14–93; 8:45 am]
BILLING CODE 3510–22–M

Proposed Rules

Federal Register
Vol. 58, No. 239
Wednesday, December 15, 1993

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

FEDERAL ELECTION COMMISSION

11 CFR Part 102

[Notice 1993–33]

Special Fundraising Projects and Other Use of Candidate Names by Unauthorized Committees

AGENCY: Federal Election Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Commission is seeking comments on a proposed amendment to its regulations regarding an unauthorized committee's use of a candidate's name in the title of a special fundraising project or other communication on behalf of the unauthorized committee. The amendment would permit such use, if the title clearly indicates opposition to the named candidate.

DATES: Comments must be received on or before January 31, 1994.

ADDRESSES: Comments must be in writing and addressed to: Ms. Susan E. Propper, Assistant General Counsel, 999 E Street, NW., Washington, DC 20463.

FOR FURTHER INFORMATION CONTACT: Ms. Susan E. Propper, Assistant General Counsel, 999 E Street, NW., Washington, DC 20463, (202) 219–3690 or (800) 424–9530.

SUPPLEMENTARY INFORMATION: On July 15, 1992, the Commission promulgated new rules on special fundraising projects and other uses of candidate names by unauthorized committees. The rules prohibit the use of a candidate's name in the title of any fundraising project or other communication by any committee that has not been authorized by the named candidate. 11 CFR 102.14(a). The rules became effective on November 4, 1992. 57 FR 31424 (July 15, 1992).

The rules construe 2 U.S.C. 432(e)(4), a provision of the Federal Election Campaign Act ["FECA" or "the Act"] that prohibits the use of the candidate's name in the name of an unauthorized political committee. In *Common Cause* v. *FEC*, 842 F.2d 436 (DC Cir. 1988), the United States Court of Appeals for the District of Columbia Circuit upheld the Commission's authority to interpret this prohibition as applying only to the name under which the committee registers with the Commission [the "registered name"], since "[an] agency's construction, if reasonable, must ordinarily be honored." Id. at 439–40. However, the court recognized that an interpretation imposing a more extensive ban on the use of candidate names by unauthorized committees, such as prohibiting their use in the titles of any fundraising projects sponsored by an unauthorized committee, would also be reasonable. Id. at 440–41.

The *Common Cause* decision grew out of the 1980 presidential election. Since that time, the Commission has become increasingly concerned over the possibility for confusion or abuse under the interpretation upheld in that case (i.e., limiting the FECA's "name" prohibition to a committee's registered name). In 1992 the Commission opened a rulemaking to re-examine this question.

Comments received over the course of that rulemaking indicated that this concern was well-founded, and that the widespread use of project names was frustrating the goal of the statute. Numerous examples were given of situations where contributors, misled by the use of a candidate's name in the title of a fundraising project, erroneously believed that their contributions would be used to support the named candidate. In many instances that candidate or candidate's campaign received little or none of the money received in response to the appeal.

The NPRM in that rulemaking sought comments on two modifications to the rules then in effect: A stronger disclaimer requirement, and a requirement that only checks made payable to the registered name of the unauthorized committee responsible for the communication could be accepted. 57 FR 13056 (April 15, 1992). After considering the comments received in response to the Notice, however, the Commission decided that a total ban was justified. 57 FR 31424 (July 15, 1992). The ban took effect on November 4, 1992.

On February 5, 1993, the Commission received a Petition for Rulemaking from Citizens Against David Duke ["CADD"], a proposed project of the American Ideas Foundation. The petition requested the Commission to reconsider and repeal the new rules, both in general and with particular emphasis on those titles that indicate opposition to, rather than support for, a named candidate.

The Commission published a Notice of Availability in the **Federal Register** on March 3, 1993. 58 FR 12189. Three comments were received in response to this Notice, two of which argued that the current prohibition violates protected First Amendment rights of free speech and association.

After analyzing these comments, the Commission continues to believe that the current rules are constitutionally valid. Also, a "bright line" prohibition, such as that contained in the current rules, is substantially easier to monitor and enforce than it would be to distinguish among all the potential uses of candidate names in this context.

As already noted, the Court of Appeals for the District of Columbia Circuit has specifically stated that the Commission's approach is a reasonable interpretation of the statutory language. Also, the current rules do not impose such a burden on regulated entities as to infringe on protected First Amendment rights.

The Commission notes that David Duke is not currently a candidate for federal office, so the use of his name in a project title is not prohibited by these rules. Should he become a federal candidate, there would be no prohibition against both using and emphasizing Mr. Duke's name repeatedly in the body of the communication, as long as his name did not appear in the communication's title.

Nevertheless, the Commission recognizes that the focus of the earlier rulemaking was on titles that indicate support for a named candidate, and that the potential for fraud and abuse is significantly reduced in the case of those titles that indicate opposition. Accordingly, the Commission has decided to open a rulemaking on the narrow question of whether the current rules should be revised to permit the use of candidate names in titles that clearly indicate opposition to named candidates.

Specifically, the Commission is seeking comments on a proposed amendment to 11 CFR 102.14 that would exempt such titles from the

general prohibition on an unauthorized committee's use of candidate names in the title of a special fundraising project or other communication. The Commission stresses that, in order to qualify for this exemption, the title would have to be clear and unambiguous in its opposition to the named candidate—that is, it would have to employ words such as "against," "opposed," "dump," or "defeat" in referring to the candidate. Titles with potentially ambiguous language would continue to be prohibited, both because of the potential for fraud and abuse and because of the difficulty in evaluating and monitoring the use of such titles.

The Commission also welcomes comments on any related aspect of this rulemaking.

Certification of No Effect Pursuant to 5 U.S.C. 605(B) [Regulatory Flexibility Act]

This proposed rule will not, if promulgated, have a significant economic impact on a substantial number of small entities. The basis for this certification is that any small entities affected are already required to comply with the Act's requirements in this area. Also, the proposal would broaden the Commission's interpretation of these requirements.

List of Subjects in 11 CFR Part 102

Campaign funds, Political candidates, Political committees and parties, Reporting and recordkeeping requirements.

For the reasons set out in the preamble, part 102, subchapter A, chapter I of title 11 of the Code of Federal Regulations is amended as follows:

PART 102—REGISTRATION, ORGANIZATION, AND RECORDKEEPING BY POLITICAL COMMITTEES (2 U.S.C. 433)

1. The authority citation for part 102 would continue to read as follows:

Authority: 2 U.S.C. 432, 433, 438(a)(8), 441d.

2. Section 102.14 would be amended by adding paragraph (b)(3) to read as follows:

§ 102.14 Names of political committees (2 U.S.C. 432(e) (4) and (5)).

* * * * *

(b) * * *

(3) An unauthorized political committee may include the name of a candidate in the title of a special project name or other communication if the title clearly and unambiguously shows opposition to the named candidate by using words such as "defeat" or "opposed."

* * * * *

Scott E. Thomas,

Chairman, Federal Election Commission.

[FR Doc. 93–30568 Filed 12–14–93; 8:45 am]

BILLING CODE 6715–01–M

FEDERAL RESERVE SYSTEM

12 CFR Part 211

[Regulation K; Docket No. R–0820]

Charging for Examinations of U.S. Branches, Agencies, and Representative Offices of Foreign Banks

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Board of Governors of the Federal Reserve System (Board) is seeking public comment on a proposal to amend its regulations relating to the activities of foreign banking organizations in the United States to implement provisions of the Foreign Bank Supervision Enhancement Act of 1991 (FBSEA) requiring the Board to charge foreign banks for the cost of examinations of their branches, agencies, and representative offices in the United States (collectively, "U.S. Offices"). Under the proposal, the amount charged for examinations would be determined by multiplying examiner hours by an hourly rate. For branches and agencies, the Board proposes that the number of examiner hours would be determined by applying a formula based on the branch's or agency's characteristics. Comment is also sought regarding the use of actual recorded examiner hours for this purpose. For representative offices, the Board proposes that actual recorded examiner hours would be used.

DATES: Comments should be submitted on or before April 20, 1994.

ADDRESSES: Comments, which should refer to Docket No. R–0820, may be mailed to the Board of Governors of the Federal Reserve System, 20th & C Street, NW., Washington, DC 20551, to the attention of Mr. William W. Wiles, Secretary. Comments addressed to the attention of Mr. Wiles may be delivered to the Board's mail room between 8:45 a.m. and 5:15 p.m., and to the security control room outside those hours. Both the mail room and the security control room are accessible from the courtyard entrance on 20th Street between Constitution Avenue and C Street, NW. Comments may be inspected in room MP–500 between 9 a.m. and 5 p.m. weekdays, except as provided in § 261.8 of the Board's Rules Regarding Availability of Information, 12 CFR 261.8.

FOR FURTHER INFORMATION CONTACT: Michael G. Martinson, Assistant Director (202/452–3640), or Michael D. O'Connor, Supervisory Financial Analyst (202/452–3808), Division of Banking Supervision and Regulation; or Kathleen M. O'Day, Associate General Counsel (202/452–3786), Sandy Richardson, Senior Attorney (202/452–6406), or Paul Vogel, Attorney (202/452–3428), Legal Division; or Sally M. Davies, Economist (202/452–2908), Division of Research and Statistics; Board of Governors of the Federal Reserve System. For the hearing impaired only, Telecommunications Device for the Deaf (TDD), contact Dorthea Thompson (202/452–3544), Board of Governors of the Federal Reserve System, 20th & C Street, NW., Washington, DC 20551.

SUPPLEMENTARY INFORMATION: The FBSEA generally mandated a strengthened supervisory framework and an expanded examination program for U.S. Offices of foreign banks. Public Law 102–242, title II, subtitle A, Dec. 19, 1991, 105 Stat. 2286. The FBSEA also provides that the cost of examinations of U.S. Offices shall be assessed against and collected from the foreign bank or its parent. 12 U.S.C. 3105(c)(1)(D), 3107(c). Assessing for the cost of examinations requires consideration of various methodologies and sources of information for determining the appropriate costs of an examination, including consideration of the number and experience of the examiners involved. In this regard, in order to assure compliance with the annual examination provision of the FBSEA, the Federal Reserve was required to hire and train large numbers of new examiners during the implementation period. The Federal Reserve has now reached a point where the examination program is substantially implemented and is in a position to promulgate a methodology to assess for the cost of examinations.

The purpose of this notice of proposed rulemaking is to seek public comment regarding the methods developed by the Board for assessing the cost of examinations against foreign banks. The Board also seeks comment regarding whether implementation of the FBSEA provision requiring the assessment of examination costs against foreign banks is consistent with the policy of national treatment established

in the International Banking Act of 1978. 12 U.S.C. 3101 *et seq.*

Method of Assessment

The Board considered various methods of allocating the costs of examination to foreign banks in order to assess them for the cost of examining their U.S. Offices. The most straightforward approach would be to refer to the time spent by examiners in conducting examinations of these Offices ("examiner hours"), to derive a per hour rate for their time, and to assess a given foreign bank for its allocable share of the total cost.

Examiner Hours

The Board considers that examiner hours are the fundamental and most clearly observable indicator of Federal Reserve System resources used in examinations. Examiners' salaries and benefits are the largest component of the costs of examination. Examiner hours also appear to be an appropriate and reasonable basis upon which to allocate the other costs associated with examinations to individual institutions. These costs include, but are not limited to, the cost of equipment, clerical support, materials, and management review of the draft examination report. The Board, therefore, proposes use of examiner hours both for purposes of deriving a per hour charge and assigning examination costs to particular banks. The Board proposes use of standard examiner hours, as described below, for assessing branches and agencies for the cost of examination generally and use of actual examiner hours for assessing representative offices for such costs. The Board also seeks comment regarding the use of actual examiner hours for purposes of assessing branches and agencies for the cost of examination.

Branches and Agencies

The Board seeks comment on two alternative methods of assigning costs of examination to individual branches and agencies: (1) Developing a formula based upon experience to derive the standard number of examiner hours necessary to examine U.S. branches and agencies of foreign banks of given profiles and with given characteristics ("standard hours"); or (2) using the actual number of hours that examiners spend in conducting examinations ("actual hours"). Both of these approaches would relate a bank's examination charges to the amount of Federal Reserve resources expended on examination of its U.S. Offices. As discussed below, the Board recognizes that there may be advantages associated with each method. For the reasons discussed below, however, the Board proposes to use the standard hours method to calculate the examination charges to be assessed against U.S. branches and agencies of foreign banks. The Board also encourages commenters to provide their views regarding use of actual hours to calculate the examination charges. Each of these methods is described below, together with the Board's assessment of the relative merits of each.

Actual Hours

The Federal Reserve maintains records regarding the actual hours examiners spend on particular examinations. Actual hours, therefore, could be used to determine foreign banks' examination charges.

The Board is concerned with the use of actual hours for this purpose, however, because there are numerous factors that can cause variability in the amount of time spent examining U.S. Offices of foreign banks, even among offices having similar profiles. Such variability may result from supervisory judgments regarding matters requiring further enquiry. Decisions to make an intensive investigation of certain areas or activities, for example, will increase the number of examiner hours, even though the further enquiry may often serve to alleviate rather than to confirm supervisory concerns. Administrative decisions regarding the composition of the examination team also may affect examiner hours. For example, the number of examiner hours may increase or decrease depending upon the overall level of experience of examiners assigned to the team. Decisions to provide new examiners with on-the-job training also can increase significantly the total number of hours spent on an examination.

For these reasons, the Board is concerned that charges based on actual hours might create an atmosphere in which disagreements over the composition of examiner teams or the amount of time spent on the examination would divert attention from critical supervisory issues raised in the course of the examination. The Board also does not wish to compromise the examination process by adding to pressures from the examined entities on examiners not to take the time necessary to conduct a thorough examination of a particular institution.

The Board, therefore, does not propose use of actual hours generally to calculate charges for examinations of branches and agencies. The Board, however, is interested in receiving comment on the use of actual examiner hours for this purpose, including whether actual costs per hour (based upon actual salaries, benefits and other expenses), rather than the standard rate per hour proposed below, should be used in conjunction with actual hours to derive the examination charge. In this regard, the Board is concerned that a system of cost assessment based upon actual hours and actual costs per hour may be inefficient, given the added costs that would be associated with establishing, maintaining and administering such a system. Comment is sought regarding these matters.

Standard Hours

The Board's preferred method of determining the examination charge to be assessed against a foreign bank for its U.S. branches and agencies is to develop a formula, based upon experience, that would calculate a standard number of examiner hours required to examine these offices of given profiles and with given characteristics. Use of the standard hours method would offer the advantage of decreasing the variability of examination charges levied against offices with similar profiles, while increasing the predictability of examination costs for an individual office. In particular, random variations in charges that arise from differences in examiner experience or the other factors discussed above would not be reflected in the charges assessed against foreign banks for their individual branches and agencies in a given year. The Board believes that assessments based on standard hours would be less costly to administer and less likely to lead to billing disputes than would charges based on actual hours.

A number of other U.S. bank regulators use standardized assessments to charge banking institutions for examination and supervisory costs. Generally, such assessments are related to the size of the banking institution. It has been the Federal Reserve's experience, however, that the cost of examining any given institution will be influenced significantly by characteristics other than its asset size. In view of the relevant language of the FBSEA, the Board considers that, to the extent possible, such characteristics should be taken into account in determining the charges to be assessed against institutions for their examinations. The Board nevertheless would be interested in receiving comment regarding whether standardized assessments for the cost of examination based solely on asset size would be preferable to the multi-variable methodology described below.

Proposed Methodology

For the reasons discussed above, in proposed § 211.26(d), the Board proposes developing a formula to derive standard hours by using standard statistical techniques to estimate the number of hours generally required to examine branches and agencies with similar characteristics. The basic approach would be to estimate a linear regression of Federal Reserve examiner hours devoted over a past period to examining various branches and agencies on the characteristics thought likely to have affected the amount of time necessary to examine such offices. All characteristics ("variables") that are thought potentially to have a material effect on examiner hours would be considered for this purpose, including total assets, total loans, assets and loans in offshore "shell" branches, measures of off-balance sheet activities, problem loans, the composite rating of assets, internal controls and management ("AIM rating"), and the individual components of the AIM rating. These types of variables are key factors that influence the amount of time required to examine a banking entity.

The data used in the regression analysis would be collected from three sources—examination reports and two types of quarterly reports of condition, the FFIEC 002 and 002s reports. The examination reports would supply examination-specific data, such as the examination rating and its components and classified assets. The FFIEC 002 reports provide information regarding the U.S. operations of foreign banks, such as the dollar amount and composition of assets and liabilities and information on certain off-balance-sheet activities. The FFIEC 002s reports contain information on the balance sheets of off-shore offices of foreign banks that are "managed or controlled" (as that phrase is defined in the instructions to the 002s report) by their U.S. Offices. Data would be collected for the year prior to the year in which the standard hours, as derived under this methodology, would be applied to determine a bank's charge. Earlier years' data, if available, may also be used in the regressions, provided that examiners' practices have not changed significantly since that time.

Following the specification of various regression models, the variables that produce the best fit (that is, the characteristics of the branch or agency that best explain the amount of time necessary to examine the office, which subsequently will be referred to as the "explanatory variables") will be determined. When examiner hours are regressed on these explanatory variables, a coefficient will be estimated for each of these variables. Each coefficient when multiplied by its corresponding variable will produce a number of examiner hours typically attributable to that variable, which then will be totaled in order to derive the number of standard examiner hours for a particular branch or agency.

The Board proposes that the model be evaluated annually in light of the data for the previous year. In order to improve the predictive ability of the regression, additional variables may be identified and included and variables previously included may be deleted or modified. Such changes to the variables may be necessary to allow for interactions between variables or to account for possible nonlinear relationships between examiner hours and the characteristics of branches or agencies. In addition, if appropriate, lagged values of some of the variables may also be included, such as ratings from the previous examination (in addition to ratings from the current examination). In determining which variables to include in the model, three criteria will be considered: (1) How likely it seems that a variable would influence examiner hours significantly or would be indicative of unmeasured variables that significantly influence examiner hours; (2) the variable's contribution to the predictive ability of the model; and (3) how reasonable the estimated coefficients seem when evaluated against examiner experience.

Application of Proposed Methodology

Using data that were available from the sources described above for 1993, Board staff specified a number of regression models containing all of the variables listed above.[1] The variables that produced the best fit for these data were: The dollar amounts of each of total loans, loans administered by the branch or agency but booked in off-shore branches, off-balance sheet derivative activities, loans in non-accrual status, and loans past due 90 days or more; whether the composite AIM rating for the current exam was 3 or worse; whether the internal controls component ("I rating") was 3 or worse for that examination; and whether the I rating for the previous examination was 4 or worse. Each of the latter two variables were scaled by the amount of total loans.[2]

The regression results for the model that includes these variables are discussed in further detail in a separate section below. However, statistical analysis indicates that the relationship between examiner hours and the explanatory variables is highly significant. The adjusted R-squared statistic measures the percentage of the total variation of examiner hours explained by the variables included in the regression, thereby measuring the goodness of fit of the model. A high adjusted R-squared (close to 1) indicates a good fit. If all of the explanatory variables listed above are included in the regression analysis, the adjusted R-squared is 0.85, which indicates that this method of calculating predicted examiner hours explains 85 percent of the total variation of examiner hours for examinations of branches and agencies included in the sample. An adjusted R-squared of 0.85 generally would be regarded as very good for cross-section data, which these data are (having been drawn from actual examinations of branches and agencies during the last year). The remaining 15 percent of the variation in examiner hours that is unexplained by this model is attributable to characteristics other than the explanatory variables.

Although the total costs recovered by the Federal Reserve using standard hours should equal the total costs recovered using actual hours, for some branches and agencies there may be considerable variation between the standard hours predicted by the model and the actual hours recorded for examinations.[3] The Board considers that a substantial portion of the unexplained variation between standard and actual hours is due to omitted supervisory and administrative factors, such as decisions to explore certain aspects of a bank's operations in greater detail, the level of experience of various examination

[1] The data used in the analysis were obtained from the five Federal Reserve Banks that conduct the vast majority of examinations of branches and agencies—Atlanta, Chicago, Dallas, New York and San Francisco. These data were then matched with data reported by the branches and agencies in the FFIEC 002 and FFIEC 002s reports.

[2] Variables that were examined but that did not improve the predictive ability of the regression were total assets, previous composite AIM rating, individual components of the AIM rating other than internal controls, the dollar amount of total assets booked in off-shore branches, and off-balance sheet credit activities.

[3] In 76 percent of the total observations in the model, the predicted cost, which is calculated based upon standard hours, is within a range of plus or minus $10,000 of cost calculated based upon actual hours. Ninety-two percent of the observations are within a range of plus or minus $20,000 and 99 percent are within a range of plus or minus $30,000. The average predicted examination cost was $28,000. Fifty percent of the observations had predicted costs based on standard hours of less than $17,000; 75 percent had predicted costs less than $32,000; and 90 percent had predicted costs less than $65,000.

teams, and unavoidable interruptions in the examination process. In investigating differences between standard and actual hours, the Board found that use of examinations to train new examiners increased actual examiner hours significantly. The Board considers that this is a transitory development resulting from the substantial build-up of staff during the past year to meet the new FBSEA requirements and expects this factor to be much less significant in the future. Other exceptional events, such as the bombing of the World Trade Center, which houses a number of branches and agencies, also were found to disrupt or prolong the examination process.

The Board also has identified two additional bank-specific factors not taken into account in the current model that might have an effect on actual examiner hours. These factors are: (1) The presence in the branch's or agency's portfolio of participations in large loans that are examined under the Shared National Credit Program ("shared national credits"); and (2) the number of loans in a branch's or agency's portfolio. All shared national credits are reviewed centrally at the offices of the lead banks, which obviates the need for examiners to analyze these loans during on-site examinations and consequently reduces the number of actual examiner hours. The number of loans in a branch's or agency's portfolio (not just the dollar amount of loans) also may influence the actual number of hours necessary to examine the branch or agency: The greater the overall number of loans, the more examiner time that may be required.

Although it is possible that the effects of shared national credits and the number of loans are indirectly accounted for in the model because the model allows for economies of scale in examining loans, the Board considers that these factors merit further consideration with a view to possibly incorporating them as additional explanatory variables in the model if sufficient data are available. The Board would appreciate comment on whether these factors expressly should be incorporated in the model or simply taken into account indirectly through variables that allow for economies of scale.

Finally, as noted above, the standard hours methodology assigns similar hours to institutions with similar measured characteristics. However, as also discussed above, actual hours can vary substantially across institutions with similar profiles. Thus, the difference between actual and standard hours also may be due to differences in actual examiner hours for institutions with similar profiles. When these differences in actual hours are substantial, one would expect that the variation between actual and standard hours also would be substantial. Some of these differences in actual hours likely result from the administrative and supervisory factors discussed above and are smoothed out by the standard hours methodology, as are any differences resulting from unmeasured bank characteristics. Any such differences would be examined to determine possible reasons and adjustments to the model would be as appropriate.

The Board specifically seeks comment from foreign banks that would be subject to these examination charges regarding whether they consider the standard hours approach preferable to establishing the charge based upon the actual number of hours taken to complete the examination. The Board recognizes that the standard hours method is based upon complex statistical analysis, but considers that, once the methodology is implemented, it may be more straightforward to apply, more cost-effective in nature because new record-keeping systems would not be required by the Reserve Banks, and more predictable in its end result. In establishing a system for recovery of examination costs, the Board is particularly mindful of the additional costs potentially associated with the implementation, maintenance and administration of such a cost-assessment system; in the Board's view, such costs should be kept to a minimum and certainly in proportion to the amounts eligible for recovery. Comments on these matters are requested.

Specialized Examinations

The Board is mindful that the standard hours methodology described above may prove to be less appropriate for certain types of examinations conducted by the Federal Reserve, either because the examinations are of a specialized nature or because they may be conducted less than annually. Among these types of specialized examinations are electronic data processing (EDP) examinations, consumer compliance examinations, and trust examinations. The Board seeks comment on whether, if feasible, the costs associated with specialized examinations should be included in the total cost of examination and recovered on the basis of the standard hours methodology described above or some variation thereof, or whether these costs should be recovered on the basis of actual examiner hours.

Representative Offices

While the Board generally favors the standard hours method described above, the model discussed above is based upon data relating to the examinations of branches and agencies and would not be appropriate for calculating charges for examinations of representative offices. Examinations of representative offices by the Federal Reserve commenced in late 1992. These initial examinations by Federal Reserve examiners have been, in large part, exploratory, and further experience with examinations of these offices is necessary before examination procedures for these offices can be standardized. In these circumstances, the Board considers that development of a model for representative offices similar to that described above is not feasible at this time. The Board proposes that, until further experience with examinations of these offices is gained, actual examiner hours will be used to assess representative offices for examination costs.

Identifying the Costs To Be Recovered

Another question considered by the Board in developing this proposal is which costs constitute the cost of examinations, given that such costs are the costs to be recovered by the Federal Reserve pursuant to the FBSEA. The Board considers that only those costs reasonably related to the conduct of examinations should be considered to be the cost of examinations and assessed against foreign banks.

The official cost accounting system of the Federal Reserve System is known as the Planning and Control System (PACS). PACS is used for purposes of developing budgets for Reserve Banks, accounting for Federal Reserve System expenses, and determining the cost of its various output services, including prices for check collection, Fedwire, and automated clearinghouse services. PACS data, which are available to the public, constitute the sole source of information on examination costs other than examiners' salaries, benefits, and travel expenses. Such costs include, e.g., costs related to materials and supplies, computer equipment and software, data processing, and printing and duplication.

The Board considers that the fundamental role of PACS in accounting for Federal Reserve System expenses and its use in setting the prices of the Federal Reserve's services sold in the market argue for its use as the basis for determining the appropriate amounts to assess foreign banks for examinations of their U.S. Offices. As currently

structured, however, PACS does not provide information sufficient to segregate the costs incurred in conducting examinations of U.S. Offices of foreign banks from other examination and supervisory costs.

Instead, these costs presently are aggregated in PACS with the cost of examining the U.S. subsidiaries of foreign banks (e.g., commercial banks, bank holding companies and their nonbank subsidiaries, and Edge Act corporations) and with other examination and supervisory costs. It is necessary, therefore, to revise PACS in order to provide information sufficient to segregate the costs of examining U.S. Offices from other examination and supervisory costs.

For this reason, the Board has provisionally created for 1993 sub-categories referred to as "sub-activities" in order to isolate examination costs pertaining to U.S. Offices from these other costs. Each Reserve Bank has reviewed the information reported in PACS for the first quarter of 1993 and has provided provisional data for the new sub-activities for that quarter, as well as cost estimates for these sub-activities for the entire year. The Reserve Banks also have reported total examiner hours spent thus far in 1993 in the examination of U.S. Offices and estimated total examiner hours in this sub-activity for the year as a whole. Commencing with the first quarter of 1994, the Board proposes to revise the relevant PACS activities in order to provide information sufficient to isolate the costs of examination of U.S. Offices of foreign banks from other examination and supervisory costs.

The Board believes that the information provided in the revised PACS activities will constitute a reliable and appropriate measure of the cost of examination to be recovered by the Board pursuant to the cost-assessment provision of the FBSEA. These activities will include both direct and support costs as these components are defined in PACS.[4]

The Board considers that certain of the Federal Reserve System's expenses that under PACS presently are categorized as overhead[5] also should be recovered as additional direct examination costs. Specialist staff, such as lawyers, accountants or systems experts, that are assigned to examinations because of a need for their particular expertise would charge their time directly to the examination activity. The Board also considered whether certain other of the Reserve Banks' general overhead expenses should be recovered from foreign banks. The Board concluded that such costs are too remotely related to the conduct of examinations to include such costs in examination charges assessed against foreign banks.

Table 1 summarizes the direct and support costs of examination for the Federal Reserve System as a whole for 1993, which have been estimated based upon PACS data. Table 1 also includes an estimate of the additional specialist costs associated with examination, which under PACS presently are included in overhead. This estimate was derived by taking the total PACS cost allocated to such staff and multiplying it by .0743, which is the approximate proportion of examination costs for U.S. Offices of foreign banks to the total costs for the PACS category or "service" to which examination costs presently are attributed. Commencing with the first quarter of 1994, PACS will be revised such that specialist staff used during the course of an examination will charge their time directly to the examination function rather than generally to overhead.

TABLE 1.—PROJECTED SYSTEM COSTS OF EXAMINATION OF U.S. OFFICES OF FOREIGN BANKS FOR 1993

[In dollars]

	Per year
Total PACS Direct Costs	11,023,302
Personnel	10,128,406
Travel	554,621
Other Direct	340,275
Total PACS Support Costs	493,806
Total PACS Direct and Support Costs	11,517,108
Allocated Specialist Costs (derived from PACS overhead data)	202,369
Total Costs	11,719,477

Calculating the Examination Charge

The Board proposes that a particular bank's examination charge would be calculated as the product of examiner hours (either actual or standard) times a rate per hour.[6] An hourly rate would be derived by dividing the projected total examination costs for a given period, e.g., a year, by the projected total hours spent by examiners in conducting such examinations during that period.

Hourly rates based upon projected 1993 total costs and examiner hours are set out in Table 2.

TABLE 2.—PROJECTED SYSTEM COSTS OF EXAMINATION OF U.S. OFFICES PER EXAMINER HOUR—ESTIMATED 1993 ANNUAL DOLLARS

	Hourly rate
Total Direct Costs [1]	45.12
Personnel	40.53
Travel	2.23
Other Direct	1.37
Total Support Costs	1.98
Total Direct and Support Costs	47.10
Total Examiner Hours	248.773

[1] For purposes of this Table, the specialist costs separately listed in Table 1 have been included as additional direct personnel costs, which will be the approach taken by PACS commencing first quarter 1994 as noted above.

Federal Reserve examination costs vary by Federal Reserve District. The Board considers, however, that a single national hourly rate, representing average Federal Reserve System costs, is appropriate for determining banks' assessments. This is the approach taken by the OCC, the other Federal banking regulator that assesses banks for its supervisory costs including the cost of examination. A single national rate would be much simpler and less costly to administer than would a system of local rates. It also would be consistent generally with the Board's policy of assuring uniformity of examination standards and procedures throughout the Federal Reserve System.

Regression Results

The standard hours methodology described above has been applied to data for 143 full-scope U.S. Office examinations that were completed in 1993. Table 3 sets out the definitions of the variables used in the regression. All variables specified in terms of a dollar amount are expressed in millions of dollars.

[4] Direct costs are those expenses charged directly to a PACS activity based on actual resource usage. Examples of direct costs include salaries and benefits, travel, materials and supplies, equipment, software, shipping and communications. Support costs are charged to a PACS activity based on that activity's usage of the support function. Examples of support costs include data processing, office space, housekeeping and printing and duplication.

[5] PACS overhead expenses consist largely of administrative, bank services, accounting and legal costs.

[6] The total of all charges for the examination of branches, agencies, and representative offices collected during a given period should be roughly equivalent to the Board's aggregate examination costs relating to those offices for the same period.

TABLE 3.—VARIABLE DEFINITIONS

Name	Definition
TOTLOANS	Total loans of the branch or agency.
TOT__LE1B	The amount of total loans that is less than or equal to $1 billion.
TOT__GT1B	The amount of total loans that is greater than $1 billion.
IPOOR	Indicator variable equal to 1 if the current I rating is 3 or worse, otherwise equal to zero.
IPOOR×TOT__LE1B	The product of IPOOR and TOT__LE1B; for branches or agencies with current I of 3 or worse, equal to the amount of total loans that is less than or equal to $1 billion, otherwise equal to zero.
IPOOR×TOT__GT1B	The product of IPOOR and TOT__GT1B; for branches or agencies with current I of 3 or worse, equal to the amount of total loans that is greater than $1 billion, otherwise equal to zero.
PIBAD	Indicator variable equal to 1 if the previous I rating is 4 or worse, otherwise equal to zero.
PIBAD×TOTLOANS	The product of PIBAD and TOTLOANS; for branches or agencies with previous I of 4 or worse, equal to the amount of total loans, otherwise equal to zero.
AIMPOOR	Indicator variable equal to 1 if the current AIM rating is 3 or worse, otherwise equal to zero.
OFF__LE1B	The amount of loans administered by the branch or agency but booked off-shore ("off-shore loans") that is less than or equal to $1 billion.
OFF__GT1B	The amount of off-shore loans that is greater than $1 billion.
OBS__LE1B	The amount of the sum of commitments to purchase foreign currency and U.S. dollar exchange and the notional value of outstanding interest rate swaps ("off-balance-sheet derivatives") that is less than or equal to $1 billion.
OBS__GT1B	The amount of off-balance-sheet derivatives that is greater than $1 billion.
NONACCR	The amount of loans in non-accrual status.
PASTDUE	The amount of loans past-due 90 days or more.

The regression results reported in Table 4 can be used to devise a schedule of standard examiner days based on the characteristics of U.S. branches and agencies.[7] This schedule can be represented by a formula, which is derived by multiplying each variable by its corresponding coefficient:

Standards days=27.3 + 0.0315× TOT__LE1B + 0.0118× TOT__GT1B + 0.0098× IPOOR× TOT__LE1B + 0.12× IPOOR× TOT__GT1B + 0.25× PIBAD× TOT__LOANS + 15.3× AIMPOOR + 0.039× OFF__LE1B + 0.0167× OFF__GT1B + 0.0377× OBS__LE1B + 0.0004× OBS__GT1B + 0.0981× NONACCR + 0.228× PASTDUE.

TABLE 4.—REGRESSION RESULTS: EXAMINER-DAYS REGRESSED ON BRANCH AND AGENCY CHARACTERISTICS

Variable	Coefficient estimate (t-statistics are listed in parentheses)
INTERCEPT	27.3** (6.6)
TOT__LE1B	0.0315** (3.2)
TOT__GT1B	0.0118* (2.6)
IPOOR×TOT__LE1B	0.0098 (0.6)
IPOOR×TOT__GT1B	0.120** (6.9)
PIBAD×TOTLOANS	0.250** (7.4)
AIMPOOR	15.3* (2.5)
OFF__LE1B	0.0390** (2.9)
OFF__GT1B	0.0167** (3.5)
OBS__LE1B	0.0377** (3.6)
OBS__GT1B	0.0004* (2.5)
NONACCR	0.0981 (1.1)
PASTDUE	0.228 (0.6)
Adjusted R^2	0.85
Regression F-statistic significance level (in percents)	67.7 0.01

*Significant at the 5 percent confidence level.

**Significant at the 1 percent confidence level.

The coefficient on the INTERCEPT indicates that the minimum standard days for an examination is 27.3 days. The next two coefficients, on TOT____LE1B and TOT____GT1B, measure the number of additional examiner days typically needed to examine a given amount of total loans. If the branch or agency has less than $1 billion in total loans, then the increment to standard days is 0.0315 days per million dollars of loans. If the branch or agency has more than $1 billion in total loans, then the increment to standard days attributable to total loans is 31.5 days ($1,000 million times 0.0315) plus 0.0118 days for each million dollars of loans in excess of $1 billion.[8] The next two coefficients, on IPOOR×TOT____LE1B and IPOOR×TOT____GT1B, measure the increment to standard days (over and above that already added by TOT____LE1B and TOT____GT1B) required to examine loans if the branch's or agency's I rating is 3 or worse.[9] For branches or agencies with total loans less than $1 billion and an I rating no better than 3, the increment to standard days attributable to total loans increases by an additional 0.0098 days per million dollars of loans (the coefficient on IPOOR×TOT____GT1B), for a total of 0.0413 days per million dollars of loans. For branches or agencies with total loans above $1 billion and an I rating no better than 3, standard days increases by an additional 0.120 days per million dollars of loans in excess of $1 billion (the coefficient on IPOOR×TOT____LE1B), for a 0.1318,

[7] For ease of interpretation, the regression results are presented in terms of days, as opposed to examiner hours. To convert standard examiner days to examiner hours, simply multiply standard days by eight.

[8] This result suggests that there may be economies of scale in examining total loans. As discussed above, examiner hours likely increase with the number of loans, but decrease with the number of loans that are shared national credits. At larger values of total loans, the number of loans likely increases at a slower rate because both loan size and the number of shared national credits likely increase. This would create the observed relationship between total loans and examiner hours—examiner hours increase as total loans increase, but they increase more slowly at higher values of total loans.

[9] Poor internal controls in a banking office generally lengthen the amount of time it takes to examine an office of any particular size. Regression results indicate that scaling this variable against total loans provides a reasonable basis for assessing a charge taking into account this variable.

plus an additional 9.8 days for the first $1 billion, for a total of 41.3 days for the first billion. The coefficient on PIBAD×TOT___LOANS, 0.25, is the increment to standard days per million dollars of loans for branches or agencies that have an I rating of 4 or worse in the previous exam. The coefficient on AIMPOOR indicates that the increase in the minimum standard days for a branch or an agency with a current AIM rating of 3 or worse is 15.3 days.

The marginal cost in examiner days of examining off-shore loans and off-balance-sheet derivatives also declines as total off-shore loans and the notional value of derivatives, respectively, exceed $1 billion. The coefficient on OFF___LE1B indicates that up to the first billion dollars of off-shore loans, standards days increase by 0.039 per million. Above the first billion dollars of off-shore loans, standard days increase by 0.0167 days per million of these loans (the coefficient on OFF___GT1B). The coefficient on OBS___LE1B suggests that up to the first billion dollars of off-balance-sheet derivatives, standard days increase by 0.0377 per million. Above the first billion dollars of off-balance-sheet derivatives, standard days increase by 0.0004 days per million of the notional value of these instruments (the coefficient on OBS___GT1B).

The coefficients on NONACCR and PASTDUE indicate that standard days increase 0.0981 and 0.228, respectively, per million dollars of loans in non-accrual status and past-due loans. Note that the coefficients on NONACCR and PASTDUE are not statistically significantly different from zero. However, one would expect that these variables should have an influence on the amount of time required to perform an examination. Since it may be the case that these variables are insignificant because of the small sample size, these variables are included for consideration. If the coefficients remain insignificant when estimated using a larger sample, they may be removed from the model.

Paperwork Reduction Act

No collections of information pursuant to section 3504(h) of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) are contained in the proposed rule.

Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601–612) does not apply to a rule of particular applicability relating to rates, wages, corporate or financial structures or reorganizations thereof. *Id.* at 601(2). Accordingly the Act's requirements regarding an initial and final regulatory flexibility analysis (*id.* at 603 and 604) are not applicable here.

In any event, two of the requirements of an initial regulatory flexibility analysis—a description of the reasons why the action of the agency is being considered and a statement of the objectives of, and the legal basis for, the proposed rule—are contained in the supplementary information above. The Board's proposed rule would require no additional reporting or recordkeeping requirements by the public; nor are there relevant Federal rules that duplicate, overlap, or conflict with the proposed rule, other than as required by law.

Another requirement of the initial regulatory flexibility analysis is a description of and, where feasible, an estimate of the number of small entities to which the rule shall apply. The Board's proposed rule would apply to all U.S. Offices of foreign banks, and would charge each foreign bank for the costs of examination attributable to that bank's U.S. Offices, as required by Congress. Thus, the proposed rule fulfills the primary purpose of the Regulatory Flexibility Act, which is to make sure that agencies' rules do not impose disproportionate burdens on small businesses.

Accordingly, the Board hereby certifies that the proposed rule, if adopted in final form, will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act.

For the reasons set out in the preamble, 12 CFR part 211 is proposed to be amended as follows:

PART 211—INTERNATIONAL BANKING OPERATIONS (REGULATION K)

1. The authority citation for part 211 is revised to read as follows:

Authority: 12 U.S.C. 221 *et seq.*, 1841 *et seq.*, 3101 *et seq.*, 3901 *et seq.*, title II, Pub. L. 97–290, 96 Stat. 1235; and title III, Pub. L. 100–418, 102 Stat. 1384.

2. Section 211.26 is amended by adding paragraphs (d) through (g) to read as follows:

§ 211.26 Examination of offices and affiliates of foreign banks.

* * * * *

(d) *Cost of examinations of branches and agencies—*

(1) *Assessment and payment of costs.* The Board shall assess against the foreign bank or its parent the cost of any examination of its U.S. branches or agencies conducted by the Federal Reserve pursuant to paragraphs (a)(1) or (c) of this section. The foreign bank or its parent shall pay to the appropriate Reserve Bank or, if so directed, to the Board the amount assessed for the cost of such examination.

(2) *Determination of cost.* The cost assessed by the Board, pursuant to paragraph (d)(1) of this section, shall be determined by multiplying the standard hours, determined pursuant to paragraph (d)(3) of this section, by the hourly rate, determined pursuant to paragraph (f) of this section.

(3) *Linear Regression; standard hours formula.* (i) The standard hours for a branch or agency of a foreign bank shall be calculated by using a formula derived from a linear regression that relates examiner hours to characteristics of U.S. branches or agencies of foreign banks.

(ii) The linear regression shall be used to estimate coefficients for each characteristic included in the regression.

(iii) The formula shall be used to calculate standard hours for each branch or agency of a foreign bank examined by the Federal Reserve by multiplying each regression coefficient by the value of the corresponding characteristic of the branch or agency and adding the products to the intercept, which is the minimum number of standard hours for an examination.

(iv) The value of each of the characteristics used in the calculation described in paragraph (d)(3)(iii) of this section shall come from the same sources as the regression data described in paragraph (d)(4) of this section, but shall be the most recent data that are available upon completion of the examination for which the charge is being assessed.

(4) *Regression data.* (i) The data used in the regression shall be collected from one or more of the following sources: examination reports and Federal Financial Institutions Examination Council Forms 002 and 002s.

(ii) The data used in the regression shall include data for the year in which the "Notice of Standard Hours Formula and Hourly Rate for Examinations of U.S. Offices of Foreign Banks" (hereafter referred to as "Notice"), provided for in paragraph (g) of this section, is published in the Federal Register.

(iii) The data used in the regression may, in the discretion of the Board, also include data relating to previous years, if including such data improves the predictive ability of the regression and examiners' practices have not changed significantly since that time.

(5) *Regression variables.* Characteristics that, in the discretion of the Board, may be specified as variables in the regression include:

(i) The dollar amounts of each of total assets, total loans, loans administered by a U.S. branch or agency but booked in off-shore branches, off-balance sheet derivative and credit activities, loans in non-accrual status, loans past due 90 days or more, and classified assets; and

(ii) The composite AIM rating and the individual components of the AIM rating (asset quality, internal controls, and management).

(6) *Other considerations regarding variables.* In order to improve the predictive ability of the regression, in the light of developments regarding characteristics of branches or agencies of foreign banks or the Federal Reserve's examination practices, the Board may:

(i) Include additional variables other than those specified in paragraph (d)(5) of this section;

(ii) Drop variables or amend their specification, if appropriate, to allow for possible interactions between variables or non-linear relationships; or

(iii) Include lagged values of some variables.

(7) *Factors considered in determining regression variables.* In determining which variables to include in the regression, the Board shall consider:

(i) The likelihood that a variable would influence examiner hours significantly or would serve as a proxy for unmeasured variables that would influence examiner hours significantly;

(ii) The variable's contribution to the predictive ability of the regression; and

(iii) The reasonableness of the signs and magnitudes of the estimated coefficients.

(8) *Publication of standard hours formula and hourly rate.* The formula for calculating standard hours pursuant to paragraph (d)(3) of this section shall be published in the Notice provided for in paragraph (g) of this section.

(e) *Cost of examination of representative offices—*

(1) *Assessment and payment of costs.* The Board shall assess against the foreign bank the cost of any examination of its representative offices conducted by the Federal Reserve, pursuant to paragraph (a)(2) of this section. The foreign bank shall pay to the appropriate Reserve Bank or, if so directed, to the Board the cost of such examination.

(2) *Determination of cost.* The cost assessed by the Board, pursuant to paragraph (e)(1) of this section, shall be determined by multiplying the actual number of hours taken to examine the representative office by Federal Reserve examiners by the hourly rate, determined pursuant to paragraph (f) of this section.

(f) *Calculation of hourly rate—*(1) *Formula.* The hourly rate charged by the Board, pursuant to paragraphs (d)(2) and (e)(2) of this section, shall be calculated as follows:

$$\frac{DC+SC}{EH}=HR$$

where:

DC: Direct costs
SC: Support costs
EH: Examiner hours
HR: Hourly rate

(2) *Components of formula.* The component parts of the hourly rate formula set out in paragraph (f)(1) of this section are defined as follows:

(i) *Direct costs:* Those expenses budgeted for the coming year to be charged directly to the Federal Reserve's Planning and Control System (PACS) for the examination of U.S. branches, agencies and representative offices of foreign banks, including, but not limited to, expenses relating to salary and benefits, travel, materials and supplies, equipment, software, shipping, and communications.

(ii) *Support costs:* Those expenses budgeted for the coming year to be charged to PACS for the usage of support functions during the course of examinations of U.S. branches, agencies and representative offices of foreign banks, including, but not limited to, expenses relating to data processing, office space, housekeeping, and printing and duplication.

(iii) *Examiner hours:* The number of hours budgeted for on-site examinations of U.S. branches, agencies, and representative offices of foreign banks by examiners for the coming year.

(3) *Publication of hourly rate.* The hourly rate determined pursuant to paragraph (f) of this section shall be published in the Notice provided for in paragraph (g) of this section.

(g) *Notice of standard hours formula and hourly rate for examinations of U.S. offices of foreign banks—*(1) *December Notice.* A Notice shall be published in the **Federal Register** by the Board no later than the first business day in December of each year. The Notice shall specify the standard hours formula and the hourly rate to be used by the Federal Reserve to charge for the examination of U.S. branches, agencies, and representative offices of foreign banks and shall be effective on January 1 of the calendar year following publication.

(2) *Interim or amended notice.* The Board may publish in the **Federal Register** an interim or amended Notice from time to time throughout the year. Unless otherwise specified, an interim or amended Notice will be effective 30 days after the date of publication in the **Federal Register.**

Board of Governors of the Federal Reserve System, December 9, 1993.

William W. Wiles,

Secretary of the Board.

[FR Doc. 93–30537 Filed 12–14–93; 8:45 am]

BILLING CODE 6210–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 93–NM–150–AD]

Airworthiness Directives; Boeing Model 747 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Boeing Model 747 series airplanes. This proposal would require inspections to detect cracked or fractured H–11 steel bolts, and replacement of discrepant bolts with ones made of Inconel 718 material. This proposal also would require the eventual replacement of all H–11 steel bolts installed at certain critical locations with bolts made of Inconel 718 material. This proposal is prompted by reports of cracked and fractured H–11 steel bolts installed at certain critical locations of the airframe structure. The actions specified by the proposed AD are intended to prevent the failure of attachment bolts in critical locations, which could lead to severe airframe damage.

DATES: Comments must be received by February 10, 1994.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 93–NM–150–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Tim Backman, Aerospace Engineer, Airframe

Branch, ANM–120S, FAA, Transport Airplane Directorate, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (206) 227–2776; fax (206) 227–1181.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 93–NM–150–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 93–NM–150–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

In 1989, the FAA issued AD 89–23–07, Amendment 39–6376 (54 FR 43801, October 27, 1989), which requires operators of certain Boeing Model 747 series airplanes to inspect the condition of H–11 steel bolts installed in critical locations of the airplane structure. Operators are required to inspect these bolts for cracks and fractures, and to replace any discrepant bolt with a bolt made of Inconel 718 material. (Bolts made of Inconel 718 material have improved stress corrosion properties and, therefore, are less susceptible to cracking or fractures.)

That AD was prompted by numerous reports of cracked or fractured H–11 steel bolts that were installed in various critical locations, such as the body landing gear inboard and outboard trunnion vertical support, and the wing landing gear beam upper chord-to-longeron attachment. Cracking in H–11 steel bolts has been attributed to stress corrosion, which can result from finish deterioration, preload, moisture presence, and/or shank corrosion. If a single H–11 bolt installed in a critical location were to fail, ultimate load conditions could cause the adjacent bolts to fail as well; this condition could result in severe structural damage to the airframe. The requirements of AD 89–23–07 are intended to prevent this situation.

Since issuance of that AD, the manufacturer has identified additional Model 747 series airplanes in which H–11 steel bolts were installed at various critical locations during manufacture. These additional airplanes are, therefore, subject to the same unsafe condition addressed by AD 89–23–07.

The FAA has reviewed and approved Boeing Service Bulletin 747–51–2048, dated January 14, 1993, that describes procedures for conducting visual inspections to detect cracked or fractured H–11 steel bolts installed at various critical locations. The service bulletin also describes procedures for replacement of H–11 steel bolts with bolts made of Inconel 718 material.

The effectivity listing of this service bulletin includes airplanes having line number 641 through 708, inclusive. (Beginning with airplane line number 709, H–11 bolts were not used in any of the subject critical attachment locations.) Additionally, the service bulletin recommends inspections of bolts in additional critical locations for certain airplanes (those having line numbers 641 through 648) that were previously subject to certain of the inspections required by AD 89–23–07.

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require repetitive visual inspections to detect cracked or fractured bolts made of H–11 steel installed in certain critical locations, and replacement of discrepant bolts with bolts made of Inconel 718 material. This proposal also would require the eventual replacement of all bolts made of H–11 steel installed in critical locations with bolts made of Inconel 718 material. Such replacement would constitute terminating action for the proposed repetitive inspection requirements. The actions would be required to be accomplished in accordance with the service bulletin described previously.

The proposed AD would be applicable only to airplanes having line numbers 641 through 708, inclusive. Airplanes having line numbers 641 through 648, inclusive, were subject to certain of the requirements of previously-issued AD 89–23–07. This proposed AD would require inspections of additional areas of those specific airplanes; these inspections would be in addition to the requirements of AD 89–23–07 for those airplanes.

There are approximately 68 Boeing Model 747 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 9 airplanes of U.S. registry would be affected by this proposed AD.

It would take an average of 15 work hours per airplane to accomplish the proposed inspection actions, at an average labor rate of $55 per work hour. Based on these figures, the total cost impact of the proposed inspection action of this AD on U.S. operators is estimated to be $7,425, or $825 per airplane, per inspection cycle.

It would take an average of 240 work hours per airplane to accomplish the proposed bolt replacement action, at an average labor rate of $55 per work hour. Required parts would cost approximately $11,000 per airplane. Based on these figures, the total cost impact of the proposed replacement action of this AD on U.S. operators is estimated to be $217,800, or $24,200 per airplane. (This estimate assumes that H–11 steel bolts are found at all affected locations.) Accomplishment of this replacement action terminates the repetitive inspection requirement; therefore the accomplishment of the replacement will result in a reduction in costs to affected operators of $275 per airplane per inspection cycle that will no longer be required.

The number of required work hours, as indicated above, is presented as if the accomplishment of the actions proposed in this AD were to be conducted as "stand alone" actions. However, in actual practice, these actions for the most part would be accomplished coincidentally or in combination with normally scheduled airplane inspections and other maintenance program tasks. Therefore, the actual number of necessary additional work hours would be minimal in many instances. Additionally, any costs associated with special airplane scheduling would be minimal.

The "total cost impact" figures described above are based on assumptions that no operator has yet accomplished any of the proposed

requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Boeing: Docket 93–NM–150–AD.

Applicability: Model 747 series airplanes having line numbers 641 through 708 inclusive, certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent severe structural damage to the airplane due to failure of attachment bolts, accomplish the following:

(a) Prior to the accumulation of 4 years total time-in-service, or within 15 months after the effective date of this AD, whichever occurs later, perform a visual inspection, in accordance with Boeing Service Bulletin 747–51–2048, dated January 14, 1993, to verify if bolts made of H–11 steel have been installed at the following locations:

Note 1: Not all airplanes need to be inspected at each critical location. Operators should refer to the Boeing service bulletin to determine which specific locations are to be inspected on which airplanes.

(1) Body landing gear inboard and outboard trunnion vertical support attachment.

(2) Wing landing gear beam upper chord to longeron attachment.

(3) Wing landing gear beam lower chord to crease beam attachment.

(4) Body Station (BS) 2598 horizontal stabilizer hinge attachment.

(5) BS 2598 longeron splice fitting attachment at stringers 11 and 23.

(6) Fin to body attachment.

(7) Horizontal stabilizer front spar jack screw attachment.

(b) If no bolt made of H–11 steel is detected, no further action is required by this AD.

(c) If any bolt made of H–11 steel is detected, prior to further flight, visually inspect the bolt to detect cracking or fracture, in accordance with Boeing Service Bulletin 747–51–2048, dated January 14, 1993.

Note 2: A bolt made of H–11 steel is considered to be fractured if the sealant around the nut or bolthead is broken, or if there are gaps between the bolthead or nut and the adjacent structure.

(1) If no cracking or fracture of the bolt is detected, repeat the inspection of that bolt thereafter at intervals not to exceed 18 months.

(2) If any cracking or fracture is detected during this inspection or during any inspection required by paragraph (c)(1) of this AD, prior to further flight, replace the discrepant bolt with a bolt made of Inconel 718 material in accordance with the service bulletin.

(d) Within 48 months after the effective date of this AD, replace all bolts made of H–11 steel installed at the locations specified in paragraph (a) of this AD with bolts made of Inconel 718 material, in accordance with Boeing Service Bulletin 747–51–2048, dated January 14, 1993. Such replacement constitutes terminating action for the inspection requirements of this AD.

(e) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Seattle Aircraft Certification Office (ACO). Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

(f) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on December 9, 1993.

Bill R. Boxwell,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 93–30552 Filed 12–14–93; 8:45 am]

BILLING CODE 4910–13–P

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14 CFR Part 39

[Docket No. 93–NM–186–AD]

Airworthiness Directives; Jetstream Aircraft Limited Model ATP Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Jetstream Model ATP airplanes. This proposal would require a one-time inspection and appropriate torque loading check of certain wing top surface stringer joint fasteners, and correction of discrepancies. This proposal is prompted by a report of loose fasteners on the wing top surface stringer joint bolts at Rib 0. The actions specified by the proposed AD are intended to prevent reduced structural integrity of the wing top surface stringer joints at Rib 0, which subsequently could lead to reduced structural integrity of the wing.

DATES: Comments must be received by February 10, 1994.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 93–NM–186–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Jetstream Aircraft, Inc., Librarian for Service Bulletins, P.O. Box 16029, Dulles International Airport, Washington, DC. 20041–6029. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: William Schroeder, Aerospace Engineer, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (206) 227–2148; fax (206) 227–1320.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 93–NM–186–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 93–NM–186–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The Civil Aviation Authority (CAA), which is the airworthiness authority for United Kingdom, recently notified the FAA that an unsafe condition may exist on certain Jetstream Model ATP airplanes. The CAA advises that, during regularly scheduled maintenance of in-service airplanes, an operator discovered loose fasteners (nuts) on the wing top surface stringer joint bolts at Rib 0 on one airplane. The cause of these loose fasteners apparently is due to improper tightening of the fasteners and the installation of bolts with excessive grip length (which resulted in thread-bound fasteners), during manufacture of the airplane. A loose nut can cause the stringer joint bolt to become loose and the bolt hole to become worn. This condition, if not corrected, could result in reduced structural integrity of the wing top surface stringer joints at Rib 0, which subsequently could lead to reduced structural integrity of the wing.

British Aerospace (the original manufacturer of Model ATP airplanes) has issued BAe ATP Service Bulletin ATP–57–14, Revision 1, dated September 27, 1993, that describes procedures for a one-time detailed visual inspection and appropriate torque loading check of the wing top surface stringer joint bolt heads and fasteners (nuts) in stringers number 1 through 19 at Rib 0. This service bulletin also describes procedures for replacing thread bound fasteners with new fasteners, and fitting wing top surface stringer joint bolts that have thread bound fasteners with additional washers. The CAA classified this service bulletin as mandatory.

This airplane model is manufactured in the United Kingdom and is type certificated for operation in the United States under the provisions of § 21.29 of the Federal Aviation Regulations and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the CAA has kept the FAA informed of the situation described above. The FAA has examined the findings of the CAA, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require a one-time detailed visual inspection and appropriate torque loading check of the wing top surface stringer joint bolts, and correction of any discrepancies. The actions would be required to be accomplished in accordance with the service bulletin described previously.

The FAA estimates that 10 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 50 work hours per airplane to accomplish the proposed actions, and that the average labor rate is $55 per work hour. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $27,500, or $2,750 per airplane. This total cost figure assumes that no operator has yet accomplished the proposed requirements of this AD action.

The number of required work hours, as indicated above, is presented as if the accomplishment of the actions proposed in this AD were to be conducted as "stand alone" actions. However, in actual practice, these actions for the most part would be accomplished coincidentally or in combination with normally scheduled airplane inspections and other maintenance program tasks. Therefore, the actual number of necessary additional work hours would be minimal in many instances. Additionally, any costs associated with special airplane scheduling would be minimal.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Jetstream Aircraft Limited (Formerly British Aerospace): Docket–93–NM–186–AD.

Applicability: Model ATP airplanes; serial numbers 2001 through 2053 inclusive, and 2055; certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent reduced structural integrity of the wing top surface stringer joints at Rib 0, which subsequently could lead to reduced structural integrity of the wing, accomplish the following:

(a) Prior to the accumulation of 10,000 total hours time-in-service, or within the next 600 hours time-in-service after the effective date of this AD, whichever occurs later, perform a detailed visual inspection and appropriate torque loading check of the fasteners in the stringer joint brackets (part number JD534J0015) at the wing top surface stringer joints for stringers 1 through 19 at Rib 0, in accordance with paragraph 2.A. of British Aerospace BAe ATP Service Bulletin ATP–57–14, Revision 1, dated September 27, 1993. If any discrepancy, as specified in the service bulletin, is detected, prior to further flight, correct it in accordance with the service bulletin.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Standardization Branch, ANM–113.

Note: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Standardization Branch, ANM–113.

(c) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on December 9, 1993.

Bill R. Boxwell,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 93–30553 Filed 12–14–93; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF JUSTICE

Parole Commission

28 CFR Part 2

Paroling, Recommitting, and Supervising Federal Prisoners: Possession and Distribution of Ammunition

AGENCY: Parole Commission, Justice.

ACTION: Proposed rule.

SUMMARY: The U.S. Parole Commission is proposing to clarify its paroling policy guidelines on rating the offenses of unlawful possession and distribution of ammunition. In many statutory provisions defining firearms offenses, Congress includes the term "ammunition". Because Congress has determined that these prohibitions and the penalties for these crimes apply equally to firearms and ammunition, the Commission is proposing to clarify its guidelines to provide parallel severity ratings for such offenses. Additionally, the Commission is proposing that the severity ratings for "multiple weapons" should be used when the prisoner has possessed or distributed ammunition of different calibers, or a combination of a single weapon and ammunition that has a caliber different from that of the weapon. This change will serve the purpose of ensuring a consistent approach to the rating of ammunition possession offenses.

DATES: Comments must be received by February 14, 1994.

ADDRESSES: Send comments to Office of the General Counsel, U.S. Parole Commission, 5550 Friendship Boulevard, Chevy Chase, Maryland 20815.

FOR FURTHER INFORMATION CONTACT: Rockne Chickinell, Office of the General Counsel, telephone (301) 492–5959.

SUPPLEMENTARY INFORMATION: In its paroling policy guidelines at 28 CFR 2.20, the Commission presently describes offense behavior severity ratings for crimes such as possession of a weapon by a prohibited person (e.g., ex-felon) and unlawful distribution of weapons. See 28 CFR 2.20, Offense Behavior Severity Index, chapter Eight, Subchapter B, paragraphs 811–813. In the offense behavior examples for various weapons offenses, the Commission does not include the term "ammunition". This omission has led to inconsistent ratings of crimes where the prisoner has unlawfully possessed or distributed ammunition, as opposed to a firearm. Some of these crimes have been given the same severity rating as if the prisoner had possessed or distributed a firearm, whereas other crimes have been rated lower on the severity scale.

In order to establish consistent policy in rating ammunition offenses, the Commission is proposing to clarify the offense examples at chapter Eight, subchapter B to add specific instructions for the rating of ammunition offenses. In reviewing federal laws describing firearms offenses, the Commission has noted that many of these laws pertain equally to firearms and ammunition. E.g., 18 U.S.C. 922(b)(1) (prohibiting the sale or delivery of any firearm or ammunition to an underage person); 18 U.S.C. 922(d) (prohibiting the sale or disposition of any firearm or ammunition to a person who is under indictment, who has been convicted of a felony, or is a fugitive from justice); 18 U.S.C. 922(g) (prohibiting the possession of any firearm or ammunition by an ex-felon). Penalty provisions make no distinction between firearms and ammunition offenses in outlining the punishment authorized by Congress. E.g., 18 U.S.C. 924(a). Because of the evident legislative determination that firearms and ammunition offenses should be treated similarly, the Commission has determined that the proposed severity ratings for ammunition offenses should be the same as those presently provided for firearms offenses.

The Commission's present ratings for firearms offenses provide a Category Three rating for the prohibited possession or distribution of a single weapon (rifle, shotgun, or handgun) and a rating of Category Four where multiple weapons are possessed or distributed. In following this same principle, the Commission is proposing that possession or distribution of ammunition of a single caliber would warrant a Category Three severity rating. However, where the offender has possessed or distributed ammunition of different calibers, the offense should be rated as Category Four. If the prisoner has possessed or distributed a single weapon and ammunition which does not correspond to the caliber of that firearm, then the proposed severity rating would be Category Four.

The Commission could rate possession or distribution of ammunition as Category Three severity, regardless of whether the prisoner had possessed or distributed ammunition of more than one caliber. But since ammunition is not interchangeable between different calibers of firearms, the Commission believes that possession or distribution of ammunition of different calibers justifies the inference that the offender either possessed different types of firearms, or was in a position to sell or barter for different types of firearms. (The proposed Category Four severity rating would not apply to different types of ammunition that could be fired from the same weapon.) In the Commission's view, the proposed ratings for possession of ammunition of different calibers (and a combination of a single weapon and ammunition of a different caliber) most reasonably implement the legislative prohibitions on firearms and ammunitions offenses, and the Commission's present scheme for rating firearms offenses.

Executive Order 12291 and Regulatory Flexibility Statement

The U.S. Parole Commission has determined that this proposed rule is not a major rule within the meaning of Executive Order 12291. This proposed rule, if adopted, will not have a significant economic impact upon a substantial number of small entities, within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 605(b).

List of Subjects in 28 CFR Part 2

Administrative practice and procedure, probation and parole, prisoners.

Accordingly, the U.S. Parole Commission proposes the following amendment to 28 CFR part 2.

The Proposed Amendment

1. The authority citation for 28 CFR part 2 continues to read as follows:

Authority: 18 U.S.C. 4203(a)(1) and 4204(a)(6).

2. 28 CFR part 2, § 2.20 is proposed to be amended by revising section 811 and paragraphs (c) and (d) of section 813, chapter Eight, subchapter B—Firearms, to read as follows:

§ 2.20 Paroling policy guidelines: Statement of general policy.

* * * * *

U.S. PAROLE COMMISSION OFFENSE BEHAVIOR SEVERITY INDEX

* * * * *

CHAPTER EIGHT OFFENSES INVOLVING EXPLOSIVES AND WEAPONS

* * * * *

Subchapter B—Firearms

811 *Possession by Prohibited Person (e.g., ex-felon)*

(a) If single weapon (rifle, shotgun, or handgun) with ammunition of the same caliber, or ammunition of a single caliber (without weapon), grade as Category Three;

(b) If multiple weapons (rifles, shotguns, or handguns), or ammunition of different calibers, or single weapon and ammunition of a different caliber, grade as Category Four.

* * * * *

813 *Unlawful Distribution of Weapons or Possession With Intent To Distribute*

* * * * *

(c) If multiple weapons (rifles, shotguns, or handguns), or ammunition of different calibers, or single weapon and ammunition of a different caliber, grade as Category Four;

(d) If single weapon (rifle, shotgun, or handgun) with ammunition of the same caliber, or ammunition of a single caliber (without weapon), grade as Category Three.

Dated: November 5, 1993.

Edward F. Reilly, Jr.,

Chairman, U.S. Parole Commission.

[FR Doc. 93–30530 Filed 12–14–93; 8:45 am]

BILLING CODE 4410–01–M

28 CFR Part 2

Paroling, Recommitting, and Supervising Federal Prisoners: Parole-Eligible Prisoners Convicted of First-Degree Murder

AGENCY: Parole Commission, Justice.

ACTION: Proposed rule.

SUMMARY: The U.S. Parole Commission is proposing to add a provision to its paroling policy guidelines that would preclude a grant of parole in certain types of first-degree murder cases unless the Commission finds compelling circumstances in mitigation of their crimes. These cases are limited to criminal behaviors that, by definition, preclude a significant likelihood of mitigating circumstances, as in the case of murders committed to silence a victim or witness, contract murders, and similar crimes. The purpose of the proposal is to ensure against the possibility that release on parole, at any point in the prisoner's sentence, would promote disrespect for the law through the absence of an explanation sufficient to establish a reasonable basis for the parole in the eyes of the public.

DATES: Comments must be received by February 14, 1994.

ADDRESSES: Send comments to Office of General Counsel, U.S. Parole Commission, 5550 Friendship Blvd., Chevy Chase, Maryland 20815.

FOR FURTHER INFORMATION CONTACT: Richard Preston, Office of General Counsel, Telephone (301) 492–5959.

SUPPLEMENTARY INFORMATION: An offender convicted of murder, or an offense involving murder under title 18, U.S. Code, prior to November 1, 1987, becomes eligible for parole after the service not more than 10 years. 18 U.S.C. 4205 (1976). This statutory provision includes any term of years or a life sentence. Eligibility for parole does not, however, create a presumption that the offender will be found suitable for parole at any time during his sentence. The statutory criteria governing parole suitability decisions by the U.S. Parole Commission are that a grant of parole must not depreciate the seriousness of the offense, promote disrespect for the law, or jeopardize the public welfare. 18 U.S.C. 4206(a)(1) and (2) (1976). These criteria are implemented, in part, by the Commission's paroling policy guidelines at 28 CFR. 2.20. The applicable guideline range are determined by reference to the seriousness of the offense (the offense severity rating) and the salient factor score (parole prognosis) of each prisoner.

In the case of extremely serious offenses such as murder, the applicable offense severity rating is Category Eight. The guideline range for such offenders extends from the minimum that appears on the guideline table at 28 CFR 2.20, to the expiration date of the offender's sentence. There is no upper limit to the guideline range for Category Eight offenses because of "* * * the extreme variability of the cases within this category." (See Explanatory Note to the Guideline Table.) Thus, if the prisoner serves to any point above the guideline minimum (including the expiration of the sentence) the decision is deemed to be a decision within the guidelines. There are no other criteria in the guidelines that govern the exercise of the Commission's discretion as to when (and whether) to grant a parole, once the Category Eight guideline minimum is satisfied. Unstructured discretion to grant parole for Category Eight offenders creates an issue, however, only in the case of prisoners who are not demonstrably a risk to public safety (as in the case of repeat offenders, serial rapists, and other predictably dangerous offenders). It is when a grant of parole turns solely upon how the Commission evaluates the seriousness of the offense for an otherwise parolable prisoner, that the need for the proposed regulation arises.

For such cases, a relevant factor not measured by the guideline table is whether or not a parole would "promote disrespect for the law." 18 U.S.C. 4206(a)(1). Congress has recognized that, in some cases, a parole that would not "depreciate the seriousness of the offense" would nonetheless "promote disrespect for the law." In other words, in the case of certain types of offenses, the Parole Commission must be concerned with the degree of public acceptance of a parole, even though that parole would be within the applicable guideline range.

Recent experience has persuaded the Commission that public acceptance must be a critical factor in paroling offenders who have committed premeditated murders to gain some calculated practical advantage (i.e., for

financial gain, to avoid arrest, to deter rivals, etc.), and who are therefore at the extreme high end of Category Eight offenses. Regardless of their probable rehabilitation (or lack of demonstrable inclination to repeat the offense in the future) the Commission must ensure against the possibility that a parole will be granted to such an offender without an explanation of mitigating circumstances sufficient to gain public acceptance of the appropriateness of that parole. It is not enough for the public to be informed that the applicable guidelines at 28 CFR 2.20 permitted release on parole; something more must be said to justify a decision that places a limit on accountability for such crimes.

Therefore, the proposed rule would preclude a grant of parole at any point in the sentence of a prisoner who has committed a first-degree murder for calculated practical advantage, unless the Commission can articulate mitigating circumstances sufficient to ensure that parole will not promote disrespect for the law. Included in this category are murders to silence a victim or witness, a contract murder, premeditated murder by torture, the premeditated murder of a law enforcement officer to carry out an offense, or a murder carried out to further the business aims of an on-going criminal operation. Thus, the murder/execution of a bank teller during a robbery for no other reason than to avoid the possibility of a subsequent identification of the offender would be the type of offense which normally precludes the possibility of mitigating circumstances. In such a case, the Commission would not grant parole unless compelling circumstances in mitigation of the offense could, in fact, be articulated for the purpose of public acceptance. The apparent rehabilitation of the offender during his prison term would not, in the light of the Commission's current decision-making practices, be treated as a factor that mitigates the seriousness of the crime, or that diminishes the significance of the long term impact upon victims such as surviving family members.

The Commission has not included in this proposed rule many other extremely serious types of offenses (e.g., kidnapping for ransom, other types of murder), not because a grant of parole would be expected for such cases, but only because the offense behavior definition is broad enough to permit significant variability in aggravating and mitigating factors. For example, a second-degree murder committed by a youthful offender on an Indian reservation during a family quarrel, in circumstances aggravated by poverty and alcoholism, and followed by the offender's immediate remorse, is a serious offense. However, a grant of parole at some point in the offender's sentence would be considered a reasonable possibility, without the public acceptance factor becoming an overriding concern. On the other hand, a particularly brutal and callous second-degree murder, or multiple murders, may indicate a deeply disturbed and dangerous offender who should not be paroled at any time. Thus, the fact that an offense does not fall under the narrow definition contained in the proposed rule does not mean that the Commission is obliged to grant a parole. Many offenses that, by definition, do not necessarily exclude the possibility of factors in mitigation, will appear on individual examination to be extremely heinous, with no parole deserved. However, a presumption against parole, rebuttable only by a showing of compelling circumstances in mitigation, is appropriate only for the very narrow spectrum of offenses defined herein.

Implementation

Finally, the proposed rule would be applied retroactively to review presumptive grants of parole decided by the Commission in previous years. If the case falls within the narrow definition in the proposed rule, and the Commission has previously failed to articulate compelling circumstances in mitigation, the Commission will presume that insufficient attention was paid to the public acceptance criterion of the law, and will reopen the case under 28 CFR 2.28(f) for a hearing to make that determination before the offender is released from prison. The Commission will not, however, reopen cases in which sufficient mitigating circumstances have already been identified. Reopenings would be ordered only to correct any previous failure to address the important statutory requirement that public respect for the law be maintained.

Executive Order 12291 and Regulatory Flexibility Statement

The U.S. Parole Commission has determined that this proposed rule is not a major rule within the meaning of Executive Order 12291. The proposed rule, if adopted, will not have a significant economic impact upon a substantial number of small entities, within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 605(b).

List of Subjects in 28 CFR Part 2

Administrative practice and procedure, Probation and parole, Prisoners.

Accordingly, the U.S. Parole Commission proposes the following amendment to 28 CFR part 2.

The Proposed Amendment

1. The authority citation for 28 CFR part 2 continues to read as follows:

Authority: 18 U.S.C. 4203(a)(1) and 4204(a)(6).

2. 28 CFR part 2, § 2.20 is proposed to be amended by adding the following four additional sentences to the Note governing Category Eight cases, that appears below the table entitled "Guidelines for Decisionmaking":

§ 2.20 Paroling policy guidelines: Statement of general policy.

* * * * *

Guidelines for Decision Making

* * * * *

Note: * * * A murder committed to silence a victim or witness, a contract murder, premeditated murder by torture, the premeditated murder of a law enforcement officer to carry out an offense, or a murder carried out to further the business aims of an on-going criminal operation, shall not justify a presumptive parole at any point in the prisoner's sentence unless there are compelling circumstances in mitigation (e.g., a youthful offender who participated in a murder planned and executed by his parent). Such crimes are considered, by definition, at the extreme high end of Category Eight offenses. For these cases, the expiration of the sentence is deemed a decision at the maximum limit of the guideline range. The fact that an offense does not fall under the definition contained in this rule does not mean that the Commission is obliged to grant a presumptive parole.

Dated: November 5, 1993.

Edward F. Reilly, Jr.,

Chairman, U.S. Parole Commission.

[FR Doc. 93–30531 Filed 12–14–93; 8:45 am]

BILLING CODE 4410–01–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 51, 52, 60, 61 and 64

[Docket No. A–91–52; FRL–4813–9]

RIN 2060–AD18

Enhanced Monitoring Program

AGENCY: Envrionmental Protection Agency (EPA).

ACTION: Proposed rule; notice of comment period extension.

SUMMARY: This document extends until January 31, 1994 the public comment period for the proposed new and revised regulations for the proposed Enhanced Monitoring rule, 40 CFR parts 51, 52, 60, 61 and 64. The proposal was published on October 22, 1993 (58 FR 54648). The EPA is extending the deadline at the requests of DuPont, NEDA/CARP, Exxon, STAPPA/ALAPCO, Texaco, Dow Chemical Company, General Electric Company, SOCMA, Monsanto, Chevron, AT&T, Eastman Chemical Company, Union Carbide, the Chemical Manufacturers Association (CMA), and the Association of International Automobile Manufacturers (AIAM). These companies and associations requested a 60 day extension; however, EPA is extending the comment period only 42 days because of a court order deadline to promulgate regulations by September 30, 1994. In the proposed rule, EPA stated it is relying on section 307(d) of the Act for revisions to 40 CFR parts 51, 52, 60, and 61. In this notice, the EPA hereby determines that, in accordance with section 307(d)(1)(U) of the Clean Air Act, section 307(d) applies to part 64, and therefore the EPA is relying upon the procedural requirements of section 307(d). Finally, please note that the comment period for the Enhanced Monitoring Reference Document does not parallel that of the rule package. Comments on the Enhanced Monitoring Reference Document will be received through the proposal period and after promulgation.

DATES: Comments on the proposed rule must be received by January 31, 1993.

ADDRESSES: Comments must be mailed (in duplicate if possible) to: EPA Air Docket (LE–131), Attention: Docket No. A–91-52, room M–1500, 401 M Street SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Keith Brown at 703–308–8676.

Dated: December 8, 1993.

Mary Nichols,

Assistant Administrator.

[FR Doc. 93–30571 Filed 12–14–93; 8:45 am]

BILLING CODE 6560–50–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 675

[Docket No. 90899–0015; I.D. 120893B]

Groundfish of the Bering Sea and Aleutian Islands Area

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of change in observer coverage; request for comments.

SUMMARY: NMFS proposes a change in observer coverage to require all vessels equal to or greater than 60 feet (18.3 m) length overall (LOA) to have a NMFS-certified observer on board at all times while fishing for groundfish in reporting area 517 during the period that the 1994 directed fishery for Pacific cod is open in the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to collect additional information on prohibited species bycatch rates experienced by vessels fishing in this area for purposes of assessing current and future bycatch management measures.

DATES: Comments must be received at the following address no later than 4:30 p.m., Alaska local time (A.l.t.), December 27, 1993.

ADDRESSES: Comments may be sent to Ronald J. Berg, Chief, Fisheries Management Division, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802–1668 (Attn: Lori Gravel).

FOR FURTHER INFORMATION CONTACT: Ellen R. Varosi, Fishery Biologist, Fisheries Management Division, Alaska Region, NMFS, 907 586–7228.

SUPPLEMENTARY INFORMATION: The groundfish fishery in the BSAI exclusive economic zone is managed by the Secretary of Commerce according to the Fishery Management Plan for the Groundfish Fishery of the BSAI (FMP) prepared by the North Pacific Fishery Management Council (Council) under authority of the Magnuson Fishery Conservation and Management Act. Fishing by U.S. vessels is governed by regulations implementing the FMP at 50 CFR parts 620 and 675.

Current observer coverage requirements at § 675.25(c)(1)(iii) for catcher/processor or catcher vessels greater than 60 feet (18.3 m) LOA require that: (1) Vessels 125 feet (38.1 m) LOA or longer must carry a NMFS-certified observer at all times while fishing for groundfish; and, (2) vessels from 60 (18.3 m) through 124 feet (37.8 m) LOA must carry a NMFS-certified observer during 30 percent of their days during fishing trips in each calendar quarter of the year in which they fish more than 10 days in the groundfish fishery. At its September 1993 meeting, the Council recommended that NMFS take action to address concerns that the difference in observer coverage on vessels participating in the directed fishery for Pacific cod could lead to variations in halibut bycatch rates that may jeopardize inseason management of halibut bycatch mortality limits. Specifically, the Council recommended that NMFS increase mandatory observer coverage from 30 percent to 100 percent on vessels greater than or equal to 60 feet (18.3 m) LOA and less than 125 feet (38.1 m) LOA that fish for groundfish in BSAI reporting area 517 (defined at § 675.2) during the period the 1994 directed fishery for Pacific cod is open. This change in observer coverage will allow NMFS to determine halibut bycatch rates through observer reports. Although bycatch rates experienced in the Pacific cod fishery are of greatest concern, the Council's recommendation would increase observer coverage for all groundfish fisheries in reporting area 517 to collect additional data on prohibited bycatch rates experienced by vessels in the 60 (18.3 m) through 124 feet (37.8m) LOA size class to facilitate the monitoring and enforcement of an interim adjustment to observer coverage requirements.

The Director, Alaska Region, NMFS, proposes to implement the Council's recommendation under authority at § 675.25(c)(1)(i). Under the proposed action, all vessels with a Federal groundfish permit that are equal to or greater than 60 feet (18.3 m) LOA would be required to carry a NMFS-certified observer on board at all times while participating in a directed fishery for groundfish in reporting area 517. This requirement would be effective only during the directed fishery for Pacific cod in 1994. Catcher vessels delivering only unsorted cod-ends to observed motherships would be exempt from the proposed increase in observer coverage.

This action is necessary to effectively monitor prohibited species bycatch rates experienced by vessels equal to or greater than 60 feet (18.3 m) LOA and less than 125 feet (38.1 m) LOA and to identify specific locations within reporting area 517 that contribute to high bycatch rates. This information will be used to help assess future management bycatch measures.

NMFS estimates that a requirement for increased observer coverage on vessels equal to or greater than 60 feet

(18.3 m) and less than 125 feet (38.1 m) LOA would increase observer costs during 1994. Based on the maximum observer contractor fee of $183 per day, and the duration of the 1993 directed fishery for Pacific cod (132 days), observer costs for vessels engaged in fishing for groundfish in reporting area 517 could increase by approximately $17,000 per vessel. This estimate assumes that vessels will fish each day in reporting area 517 for 132 days and that vessels equal to or greater than 60 feet (18.3 m) LOA but less than 125 feet (38.1 m) LOA would carry an observer on board for 30 percent of these days under existing observer coverage requirements without the proposed change. Based on 1993 data, fifty-two vessels in this size category fished for groundfish in reporting area 517 between January 1 and May 11, 1993, the period during which the directed fishery for Pacific cod was open. These vessels could be affected by the proposed increase in observer coverage during 1994, for a maximum total estimated cost of approximately $884,000. This estimate is considered to be a maximum cost because it is unlikely that each of these vessels will fish every day in area 517 during the period the 1994 directed fishery for Pacific cod is open.

Classification

This action is taken under 50 CFR 675.25.

List of Subjects in 50 CFR Part 675

Fisheries, Reporting and recordkeeping requirements.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: December 10, 1993.

David S. Crestin,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 93–30539 Filed 12–10–93; 3:32 pm]

BILLING CODE 3510–22–M

Notices

Federal Register
Vol. 58, No. 239
Wednesday, December 15, 1993

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF COMMERCE

Agency Form Under Review by the Office of Management and Budget

DOC has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: Bureau of the Census.

Title: Annual Survey of Communication Services.

Form Number(s): B–516 through B–521.

Agency Approval Number: 0607–0706.

Type of Request: Revision of a currently approved collection.

Burden: 7,000 hours.

Number of Respondents: 1,780.

Avg Hours Per Response: 4 hours.

Needs and Uses: The Annual Survey of Communication Services is a vital component of a broad–based, multi–year program at the Census Bureau to expand coverage and improve statistics for service–related industries. This program is part of an interagency initiative to improve statistics in this sector of the economy. This survey will provide the only annual source of key measures of the communication sector, including the telephone, broadcasting, and cable television industries. These data will serve as inputs into the national income and product accounts calculated by the Bureau of Economic Analysis, the Bureau of Labor Statistics' Producer Price Indices, and the Department of Commerce's publication, **Industrial Outlook**. In addition, the Census Bureau will use results of this survey in the planning and design stages of current and future economic census questionnaires by providing information on the ability of respondents to report accurate and timely data from existing records and by identifying areas of dynamic change in the communication sector.

Affected Public: Businesses or other for–profit organizations.

Frequency: Annually.

Respondent's Obligation: Mandatory.

OMB Desk Officer: Maria Gonzalez, (202) 395–7313.

Copies of the above information collection proposal can be obtained by calling or writing Edward Michals, DOC Forms Clearance Officer, (202) 482–3271, Department of Commerce, room 5312, 14th and Constitution Avenue, NW, Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Maria Gonzalez, OMB Desk Officer, room 3208, New Executive Office Building, Washington, DC 20503.

Dated: December 9, 1993.

Edward Michals,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 93–30589 Filed 12–14–93; 8:45 am]

BILLING CODE 3510–07–F

International Trade Administration

[A–427–801, A–475–801]

Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France and Italy; Amendment to Final Results of Antidumping Duty Administrative Reviews

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of amendment to final results of antidumping duty administrative reviews.

SUMMARY: On July 26, 1993, the Department of Commerce (the Department) published the final results of its 1991–92 administrative reviews of these antidumping duty orders. The classes or kinds of merchandise covered by these reviews were ball bearings and parts thereof and cylindrical roller bearings and parts thereof from France and Italy, and spherical plain bearings and parts thereof from France. The reviews covered the period May 1, 1991 through April 30, 1992. We are correcting margin rate errors with respect to ball bearings and cylindrical roller bearings from France exported by Societe National d'Etude et Construction de Moteurs d'Aviation (SNECMA) and cylindrical roller bearings from Italy exported by SNECMA.

EFFECTIVE DATE: December 15, 1993.

FOR FURTHER INFORMATION CONTACT: Joseph A. Fargo or Richard Rimlinger, Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 482–4733.

SUPPLEMENTARY INFORMATION:

Background

On July 26, 1993, the Department published in the **Federal Register** (58 FR 39729) the final results of its administrative reviews of the antidumping duty orders on antifriction bearings (other than tapered roller bearings) and parts thereof from France and Italy. The classes or kinds of merchandise covered by these reviews were ball bearings and parts thereof (BBs) and cylindrical roller bearings and parts thereof (CRBs) from France and Italy, and spherical plain bearings and parts thereof from France. The reviews covered the period May 1, 1991 through April 30, 1992.

After publication of our final results, we received timely allegations of ministerial errors from the respondent that the Department had not published the correctly calculated margins with respect to certain classes or kinds of bearings exported by SNECMA. Although these final results are the subject of litigation before the Court of International Trade (the Court), by order dated October 12, 1993, the Court granted permission to correct these errors.

Amended Final Results of Review

We have determined the following weighted-average margins to exist for the period May 1, 1991 through April 30, 1992:

Country	Company	Class or kind	Rate
France	SNECMA ...	BBs	0.05
		CRBs	0.07
Italy	SNECMA ...	CRBs	0.02

Since these rates for SNECMA are less than 0.50 percent and, therefore, *de minimis* for cash deposit purposes, the Department will require a cash deposit of zero for all entries of the above merchandise from SNECMA.

These deposit requirements are effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice and shall remain in effect until publication of the final results of the next administrative review.

This notice also serves as a reminder to importers of their responsibility under 19 CFR 353.26 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This notice is published in accordance with section 751(f) of the Tariff Act of 1930, as amended (19 U.S.C. 1675(f)), and 19 CFR 353.28(c).

Dated: December 6, 1993.

Barbara R. Stafford,

Acting Assistant Secretary for Import Administration.

[FR Doc. 93–30591 Filed 12–14–93; 8:45 am]

BILLING CODE 3510–DS–M

[A–583–822]

Postponement of Preliminary Antidumping Duty Determination: Class 150 Stainless Steel Threaded Pipe Fittings From Taiwan

AGENCY: Import Administration, International Trade Administration, Commerce.

EFFECTIVE DATE: December 15, 1993.

FOR FURTHER INFORMATION CONTACT: Michelle A. Frederick or David J. Goldberger, Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230, at (202) 482–0186 or 482–4136, respectively.

Postponement

On August 23, 1993, the Department of Commerce (the Department) initiated an antidumping duty investigation of class 150 stainless steel threaded (SST) pipe fittings from Taiwan. The notice stated that we would issue our preliminary determination on or before January 10, 1994 (58 FR 45482, August 30, 1993). On December 6, 1993, petitioners requested that the Department postpone its preliminary determination by 50 days in accordance with 19 CFR 353.15(c). As there is no compelling reason to deny the request, the Department is granting the request and postponing the preliminary determination until March 1, 1994.

The U.S. International Trade Commission is being advised of this postponement in accordance with section 733(f) of the Tariff Act of 1930, as amended (the Act).

This notice is published pursuant to section 733(c)(2) of the Act and 19 CFR 353.15(d).

Dated: December 8, 1993.

Barbara R. Stafford,

Acting Assistant Secretary for Import Administration.

[FR Doc. 93–30592 Filed 12–14–93; 8:45 am]

BILLING CODE 3510–DS–P

[A–122–401]

Red Raspberries From Canada; Preliminary Results and Partial Termination of the Antidumping Duty Administrative Review and Intent To Revoke in Part the Antidumping Duty Order.

AGENCY: International Trade Administration, Import Administration, Department of Commerce.

ACTION: Notice of preliminary results and termination in part of the antidumping duty administrative review and intent to revoke in part the antidumping duty order.

SUMMARY: Based on timely requests for review from five respondents, on July 22, 1992, the Department of Commerce (the Department) published a notice of initiation on five companies. We terminated the review of the B.C. Blueberry Cooperative Association (B.C. Blueberry) after we published the final results of the previous review and the revocation of the order as it pertained to that company (57 FR 49686, November 3, 1992). The reviews of Mukhtiar & Sons Packers Ltd. (Mukhtiar) and Universal Packers Inc. (Universal) are being terminated following timely withdrawal of their requests for review. This review covers two processors/exporters of this merchandise to the United States, and the period June 1, 1991 through May 31, 1992. For these two processors/exporters of this merchandise to the United States, we preliminarily found margins of de minimis.

In addition, the Department intends to revoke the antidumping duty order with respect to Clearbrook Packers Inc. (Clearbrook) because we have reason to believe that Clearbrook has sold the subject merchandise at not less than foreign market value for a period of at least three consecutive years and is not likely to sell the subject merchandise at less than foreign market value in the future. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: December 15, 1993.

FOR FURTHER INFORMATION CONTACT: Sylvia Chadwick or Rick Herring, Office of Countervailing Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 482–2786.

SUPPLEMENTARY INFORMATION:

Background

On June 8, 1992, the Department published in the **Federal Register** a notice of "Opportunity to Request Administrative Review" (57 FR 24244) of the antidumping duty order on Certain Red Raspberries from Canada (50 FR 26019; June 24, 1985) for the period June 1, 1991 through May 31, 1992. During June 1992, in accordance with the Commerce regulations (19 CFR 353.22(a)), five respondents (B.C. Blueberry, Mukhtiar, Universal, Clearbrook and Valley Berries (Valley)) requested reviews of their companies for the period June 1, 1991 through May 31, 1992. On June 10, 1992, Clearbrook requested revocation of the antidumping duty order and submitted the certification and agreement required by 19 CFR 353.25(b) (1) and (2). We published a notice of initiation on five companies on July 22, 1992 (57 FR 32521). On September 25, 1992, and October 16, 1992, Universal and Mukhtiar respectively, filed timely requests to withdraw from the review. The Department terminated the review of B.C. Blueberry after we published the revocation of the order as it pertained to that company (57 FR 19686, November 3, 1992). The Department is now conducting this administrative review in accordance with section 751(a) of the Tariff Act of 1930, as amended (the Act).

Scope of the Review

Imports covered by these reviews are shipments of fresh and frozen red raspberries packed in bulk containers and suitable for further processing. These products are currently classifiable under the Harmonized Tariff Schedule (HTS) item numbers 0810.20.90, 0810.20.10, and 0811.20.20. The HTS item numbers are provided for convenience and Customs' purposes. The written description remains dispositive.

The review initially covered four processors/exporters of Canadian red raspberries and the period June 1, 1991 through May 31, 1992. We are terminating the review of Universal and Mukhtiar because the companies

withdrew their requests for review on a timely basis in accordance with § 353.22(a)(5) of the Commerce regulations.

United States Price

In accordance with section 772(b) of the Act, we based U.S. price on purchase price where sales were made directly to unrelated parties prior to importation into the United States; and, in accordance with section 772(c) of the Act, on exporter's sales price (ESP) where sales to the first unrelated purchaser took place after importation into the United States. We calculated purchase price and ESP based on packed, f.o.b. and delivered prices.

We made deductions from purchase price and ESP, where appropriate, for foreign inland freight, U.S. brokerage and handling, U.S. duty and U.S. inland freight, in accordance with section 772(d)(2) of the Act. We also made further deductions from ESP, where appropriate, for credit expenses, commissions, and indirect selling expenses, pursuant to sections 772(e)(1) and (2) of the Act.

Foreign Market Value

The Department calculated foreign market value based on f.o.b. and delivered prices to unrelated customers in the home market, in accordance with section 773(a) of the Act. We made deductions from the home market price, where appropriate, for inland freight, brokerage and handling, and home market packing. We added U.S. packing to home market price in accordance with section 773(a)(1) of the Act. We also made an adjustment to the home market price, where applicable, to account for differences in the physical characteristics of the merchandise, in accordance with 19 CFR 353.57.

For comparisons involving purchase price sales, we made adjustments to the home market price, where appropriate, for differences in credit expenses and commissions, pursuant to 19 CFR 353.56(a). For comparisons involving ESP transactions, we made further deductions from the home market price, where appropriate, for credit expenses and commissions, and we made an adjustment to the home market price for indirect selling expenses, in accordance with 19 CFR 353.56(b).

For Valley Berries, we disallowed the home market claim for inventory carrying costs because the company was unable to substantiate the dates that merchandise entered cold storage inventory. Inventory carrying costs were reported as part of indirect selling expenses.

Preliminary Results of the Review

As a result of our comparison of U.S. price to foreign market value, we preliminarily determine that the following margins exist for the review period:

Processor/Exporter	Margin (percent) 6/1/91–5/31/92
Clearbrook Packers	0
Valley Berries	0

Upon publication of the final results of this review, the Department intends to revoke the antidumping duty order with respect to Clearbrook because the Department preliminarily determines that Clearbrook has met the requirements for revocation. Based on information submitted by Clearbrook during this and two previous reviews (see, Final Results of Administrative Reviews at 57 FR 49686; November 3, 1992, and 56 FR 37527; August 7, 1991), the Department preliminarily determines pursuant to 19 CFR 353.25(a)(2) that Clearbrook has sold the subject merchandise at not less than foreign market value for a period of three consecutive years. Further, due to the absence of sales at less than foreign market value for a period of three consecutive years, and the lack of any indication that such sales are likely, the Department preliminarily determines that Clearbrook is not likely to sell subject merchandise at less than foreign market value in the future. Finally, as required by 19 CFR 353.25(a)(2)(iii), Clearbrook has agreed in writing to their immediate reinstatement in the order, as long as any producer or reseller is subject to the order, if the Department concludes that Clearbrook has sold the subject merchandise at less than foreign market value. Clearbrook has submitted the certifications required under 19 CFR 353.25(b)(1). The Department conducted a verification of Clearbrook as required under 19 CFR 353.25(c)(2)(ii).

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. Individual differences between United States price and foreign market value may vary from the percentages stated above. Upon completion of this review, the Department will issue appraisement instructions directly to the Customs Service.

Furthermore, the following deposit requirements will be effective for all shipments of the subject merchandise, entered, or withdrawn from warehouse, for consumption on or after the publication of the final results of this administrative review, as provided for by section 751(a)(1) of the Act:

(1) The cash deposit rates for the reviewed companies will be those rates established in the final results of this administrative review;

(2) For previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period;

(3) If the exporter is not a firm covered in this review, a prior review, or the original less-than-fair-value investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise.

On March 25, 1993, the Court of International Trade (CIT), in *Floral Trade Council* v. *United States*, Slip Op. 93–79, and *Federal-Mogul Corporation* v. *United States*, Slip Op. 93–83, decided that once an "all others" rate is established for a company, it can only be changed through an administrative review. The Department has determined that in order to implement this decision, it is appropriate to reinstate the original "all others" rate from the less than fair value (LTFV) investigation (or that rate as amended for correction of clerical errors or as a result of litigation) in proceedings governed by antidumping duty orders. In proceedings governed by antidumping findings, unless we are able to ascertain the "all others" rate from the original LTFV investigation, the Department has determined that it is appropriate to adopt the "new shipper" rate established in the first final results of administrative review published by the Department (or that rate as amended for correction of clerical errors or as a result of litigation) as the "all others" rate for the purposes of establishing cash deposits in all current and future administrative reviews.

Because this proceeding is governed by an antidumping duty order, the "all others" rate for the purposes of this review will be 2.41 percent, the "all others" rate established in the LTFV investigation (50 FR 26019; June 24, 1985).

These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 353.26 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's

presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

Public Comment

Parties to the proceeding may request disclosure and interested parties may request a hearing not later than 10 days after publication of this notice. Interested parties may submit written arguments/comments in case briefs on these preliminary results within 30 days of the date of publication of this notice. Rebuttal briefs, limited to arguments raised in case briefs, may be submitted seven days after the time limit for filing the case brief. Any hearing, if requested, will be held seven days after the scheduled date for submission of rebuttal briefs. Copies of case briefs and rebuttal briefs must be served on interested parties in accordance with 19 CFR 353.38(e).

The Department will publish the final results of this administrative review including the results of its analysis of issues raised in any case or rebuttal brief or at a hearing.

This administrative review and notice are in accordance with section 751(a)(1)(B) of the Act (19 U.S.C. 1675(a)(1)(B)) and 19 CFR 353.22 and 353.25.

Dated: December 6, 1993.

Barbara R. Stafford,

Acting Assistant Secretary for Import Administration.

[FR Doc. 93–30593 Filed 12–14–93; 8:45 am]

BILLING CODE 3510–DS–P

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcement of an Import Limit for Certain Wool Textile Products Produced or Manufactured in Colombia

December 9, 1993.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing a limit for the new agreement year.

EFFECTIVE DATE: January 1, 1994.

FOR FURTHER INFORMATION CONTACT: Nicole Bivens Collinson, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of this limit, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–5850. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

A Memorandum of Understanding (MOU) dated October 15, 1993 between the Governments of the United States and the Republic of Colombia establishes a limit for wool textile products in Category 443 for the period beginning on January 1, 1994 and extending through December 31, 1994.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 58 FR 62645, published on November 29, 1993).

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the MOU, but are designed to assist only in the implementation of certain of its provisions.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

December 9, 1993.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: Under the terms of section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as further extended on December 9, 1992; pursuant to the Memorandum of Understanding (MOU) dated October 15, 1993 between the Governments of the United States and the Republic of Colombia; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on January 1, 1994, entry into the United States for consumption and withdrawal from warehouse for consumption of wool textile products in Category 443, produced or manufactured in Colombia and exported during the twelve-month period beginning on January 1, 1994 and extending through December 31, 1994, in excess of 121,200 numbers.

Imports charged to the category limit for the period May 1, 1993 through December 31, 1993, shall be charged against that level of restraint to the extent of any unfilled balance. In the event the limit established for that period has been exhausted by previous entries, such goods shall be subject to the level set forth in this directive.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 93–30584 Filed 12–14–93; 8:45 am]

BILLING CODE 3510–DR–F

Adjustment of Import Limits for Certain Cotton, Wool and Man-Made Fiber Textile Products Produced or Manufactured in Indonesia

December 9, 1993.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs reducing limits.

EFFECTIVE DATE: December 16, 1993.

FOR FURTHER INFORMATION CONTACT: Jennifer Tallarico, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–6704. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The current limits for certain categories are being reduced for carryforward used.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 57 FR 54976, published on November 23, 1992). Also see 58 FR 31190, published on June 1, 1993.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist

only in the implementation of certain of its provisions.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

December 9, 1993.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on May 25, 1993, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in Indonesia and exported during the twelve-month period which began on July 1, 1993 and extends through June 30, 1994.

Effective on December 16, 1993, you are directed to amend further the directive dated May 25, 1993, to reduce the limits for the following categories, as provided under the terms of the current bilateral agreement between the Governments of the United States and Indonesia:

Category	Adjusted twelve-month limit [1]
Levels in Group I	
300/301	2,750,000 kilograms.
334/335	147,816 dozen.
340/640	1,107,000 dozen.
341	628,329 dozen.
347/348	1,070,000 dozen.
351/651	342,225 dozen.
369–S [2]	634,556 kilograms.
613/614/615	17,269,327 square meters.
In Group II subgroup	
447	14,984 dozen.

[1] The limits have not been adjusted to account for any imports exported after June 30, 1993.

[2] Category 369–S: only HTS number 6307.10.2005.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 93–30585 Filed 12–14–93; 8:45 am]

BILLING CODE 3510–DR–F

Announcement of Import Restraint Limits for Certain Cotton, Wool and Man-Made Fiber Textiles and Textile Products and Silk Blend and Other Vegetable Fiber Apparel Produced or Manufactured in Malaysia

December 9, 1993.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing limits for the new agreement year.

EFFECTIVE DATE: January 1, 1994.

FOR FURTHER INFORMATION CONTACT: Jennifer Aldrich, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–6712. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

A Memorandum of Understanding (MOU) dated August 26, 1992 between the Governments of the United States and Malaysia establishes import restraint limits for the period beginning on January 1, 1994 and extending through December 31, 1994.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 58 FR 62645, published on November 29, 1993).

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the MOU, but are designed to assist only in the implementation of certain of its provisions.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

December 9, 1993.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: Under the terms of section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as further extended on December 9, 1992; pursuant to the Memorandum of Understanding (MOU) dated August 26, 1992 between the Governments of the United States and Malaysia; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on January 1, 1994, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton, wool and man-made fiber textiles and textile products and silk blend and other vegetable fiber apparel in the following categories, produced or manufactured in Malaysia and exported during the twelve-month period beginning on January 1, 1994 and extending through December 31, 1994, in excess of the following levels of restraint:

Category	Twelve-month restraint limit
Fabric Group 218, 219, 220, 225–227, 313–315, 317, 326 and 613/614/615/617, as a group.	83,024,383 square meters.
Sublevels within the group	
218	5,337,282 square meters.
219	25,856,166 square meters.
220	25,856,166 square meters.
225	25,856,166 square meters.
226	25,856,166 square meters.
227	25,856,166 square meters.
313	30,837,629 square meters.
314	37,100,000 square meters.
315	25,856,166 square meters.
317	25,856,166 square meters.
326	3,558,187 square meters.
613/614/615/617	29,680,000 square meters.
Other Specific Limits	
200	225,071 kilograms.
237	302,831 dozen.
300/301	2,387,124 kilograms.
331/631	1,638,964 dozen pairs.
333/334/335/835	187,955 dozen of which not more than 112,773 dozen shall be in Category 333, not more than 112,773 dozen shall be in Category 334, not more than 112,773 dozen shall be in Category 335 and not more than 112,773 dozen shall be in Category 835.
336/636	364,917 dozen.
338/339	861,635 dozen.
340/640	1,053,819 dozen.

Category	Twelve-month restraint limit
341/641	1,365,789 dozen of which not more than 487,246 dozen shall be in Category 341.
342/642/842	327,136 dozen.
345	125,445 dozen.
347/348	352,848 dozen.
350/650	117,978 dozen.
351/651	202,990 dozen.
363	3,180,000 numbers.
435	14,700 dozen.
438–W[1]	12,030 dozen.
442	17,915 dozen.
445/446	28,437 dozen.
604	1,046,701 kilograms.
634/635	637,453 dozen of which not more than 382,472 dozen shall be in Category 635.
638/639	375,509 dozen.
645/646	287,212 dozen.
647/648	1,351,584 dozen of which not more than 946,108 dozen shall be in Category 647–K[2] and not more than 946,108 dozen shall be in Category 648–K[3].
Group II	
201, 222–224, 229, 239, 330, 332, 349, 352–354, 359–362, 369, 400–434, 436, 438–O[4], 439, 440, 443, 444, 447, 448, 459, 464–469, 600–603, 606, 607, 611, 618–622, 624–630, 632, 633, 643, 644, 649, 652–654, 659, 665–670, 831–834, 836, 838, 839, 840 and 843–859, as a group.	36,354,557 square meters equivalent.

[1] Category 438–W: only HTS numbers 6104.21.0060, 6104.23.0020, 6104.29.2051, 6106.20.1010, 6106.20.1020, 6106.90.1010, 6106.90.1020, 6106.90.2020, 6106.90.3020, 6109.90.1540, 6109.90.2035, 6110.10.2080, 6110.30.1560, 6110.90.0074 and 6114.10.0040.

[2] Category 647–K: only HTS numbers 6103.23.0040, 6103.23.0045, 6103.29.1020, 6103.29.1030, 6103.43.1520, 6103.43.1540, 6103.43.1550, 6103.43.1570, 6103.49.1020, 6103.49.1060, 6103.49.3014, 6112.12.0050, 6112.19.1050, 6112.20.1060 and 6113.00.0044.

[3] Category 648–K: only HTS numbers 6104.23.0032, 6104.23.0034, 6104.29.1030, 6104.29.1040, 6104.29.2038, 6104.63.2010, 6104.63.2025, 6104.63.2030, 6104.63.2060, 6104.69.2030, 6104.69.2060, 6104.69.3026, 6112.12.0060, 6112.19.1060, 6112.20.1070, 6113.00.0052 and 6117.90.0046.

[4] Category 438–O: only HTS numbers 6103.21.0050, 6103.23.0025, 6105.20.1000, 6105.90.1000, 6105.90.3020, 6109.90.1520, 6110.10.2070, 6110.30.1550, 6110.90.0072, 6114.10.0020 and 6117.90.0023.

Imports charged to these category limits for the period January 1, 1993 through December 31, 1993 shall be charged against those levels of restraint to the extent of any unfilled balances. In the event the limits established for that period have been exhausted by previous entries, such goods shall be subject to the levels set forth in this directive.

The limits set forth above are subject to adjustment in the future pursuant to the provisions of the current bilateral agreement between the Governments of the United States and Malaysia.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 93–30586 Filed 12–14–93; 8:45 am]

BILLING CODE 3510–DR–F

Adjustment of Import Limits for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in Pakistan

December 9, 1993.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: December 16, 1993.

FOR FURTHER INFORMATION CONTACT: Anne Novak, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–6714. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The current limit for Categories 334/634 is being increased for special shift, reducing the limit for Category 237 to account for the increase. As a result, the limit for Categories 334/634, which is currently filled, will re-open.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 57 FR 54976, published on November 23, 1992). Also see 57 FR 56904, published on December 1, 1992.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

December 9, 1993.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on November 25, 1992, as amended, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton and man-made fiber textile products, produced or manufactured in Pakistan and exported during the twelve-month period which began on January 1, 1993 and extends through December 31, 1993.

Effective on December 16, 1993, you are directed to amend further the directive dated November 25, 1992 to adjust the limits for the following categories, as provided under the terms of the current bilateral agreement between the Governments of the United States and Pakistan:

Category	Adjusted twelve-month limit[1]
Specific Limits	
237	207,412 dozen.
334/634	189,600 dozen.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1992.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 93–30583 Filed 12–14–93; 8:45 am]

BILLING CODE 3510–DR–F

Announcement of Import Restraint Limits for Certain Cotton, Wool and Man-Made Fiber Textile Products Produced or Manufactured in Singapore

December 9, 1993.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing limits for the new agreement year.

EFFECTIVE DATE: January 1, 1994.

FOR FURTHER INFORMATION CONTACT: Jennifer Tallarico, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–6716. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement, effected by exchange of notes dated May 31 and June 5, 1986, as amended and extended, between the Governments of the United States and the Republic of Singapore establishes limits for the period beginning on January 1, 1994 and extending through December 31, 1994.

A copy of the agreement is available from the Textiles Division, Bureau of Economic and Business Affairs, U.S. Department of State, (202) 647–3889.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 58 FR 62645, published on November 29, 1993).

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

December 9, 1993.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: Under the terms of section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as further extended on December 9, 1992; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement, effected by exchange of notes dated May 31 and June 5, 1986, as amended and extended, between the Governments of the United States and the Republic of Singapore; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on January 1, 1994, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton, wool and man-made fiber textile products in the following categories, produced or manufactured in Singapore and exported during the twelve-month period beginning on January 1, 1994 and extending through December 31, 1994, in excess of the following levels of restraint:

Category	Twelve-month restraint limit
239	440,697 kilograms.
331	410,571 dozen pairs.
334	64,792 dozen.
335	194,897 dozen.
338/339	1,091,439 dozen of which not more than 637,847 dozen shall be in Category 338 and not more than 709,206 dozen shall be in Category 339.
340	763,846 dozen.
341	192,070 dozen.
342	118,196 dozen.
347/348	912,074 dozen of which not more than 570,046 dozen shall be in Category 347 and not more than 443,370 dozen shall be in Category 348.
435	6,582 dozen.
604	815,928 kilograms.
631	443,237 dozen pairs.
634	247,366 dozen.
635	253,139 dozen.
638	908,534 dozen.
639	3,224,451 dozen.
640	162,845 dozen.
641	265,617 dozen.
645/646	139,345 dozen.
647	518,781 dozen.
648	1,477,769 dozen.
Group II 200–229, 237, 300/301, 313–330, 332, 333/633, 336, 345, 349, 350, 351/651, 352/652, 353/354/653/654, 359–369, 400–434, 436, 438, 439, 440–444, 445/446, 447, 448, 459–469, 600–603, 606, 607, 611–630, 632, 636, 642–644, 649, 650, 659–S [1], 659–V [2], 659–O [3] and 665–670, as a group.	38,461,859 square meters equivalent.
Sublevels within Group II	
200	251,996 kilograms.
201	259,196 kilograms.
218	1,672,255 square meters.
219	1,672,255 square meters.
220	1,672,255 square meters.
222	378,743 kilograms.
223	119,366 kilograms.
224	1,672,255 square meters.
225	1,672,255 square meters.
226	1,672,255 square meters.
227	1,672,255 square meters.
229	122,592 kilograms.
237	231,164 dozen.
300/301	197,214 kilograms.
313	1,672,255 square meters.
314	1,672,255 square meters.
315	1,672,255 square meters.
317	1,672,255 square meters.
326	1,672,255 square meters.
330	1,176,471 dozen.
332	434,783 dozen pairs.
333/633	41,500 dozen.
336	70,000 dozen.
345	54,348 dozen.
349	416,667 dozen.
350	39,216 dozen.
351/651	38,462 dozen.
352/652	148,148 dozen.
353/354/653/654	48,426 dozen.
359	197,214 kilograms.
360	1,818,182 numbers.
361	322,581 numbers.
362	289,855 numbers.
363	4,000,000 numbers.
369	197,214 kilograms.
400	34,019 kilograms.
410	125,419 square meters.

Category	Twelve-month restraint limit
414	45,359 kilograms.
431	71,429 dozen pairs.
432	53,571 dozen pairs.
433	4,167 dozen.
434	6,000 dozen.
436	3,049 dozen.
438	10,000 dozen.
439	20,012 kilograms.
440	6,250 dozen.
442	10,000 dozen.
443	33,336 numbers.
444	33,336 numbers.
445/446	20,000 dozen.
447	8,333 dozen.
448	8,333 dozen.
459	34,019 kilograms.
464	52,338 kilograms.
465	139,355 square meters.
469	34,019 kilograms.
600	259,196 kilograms.
603	266,819 kilograms.
606	83,228 kilograms.
607	259,196 kilograms.
611	1,672,255 square meters.
613	1,672,255 square meters.
614	1,672,255 square meters.
615	1,672,255 square meters.
617	1,672,255 square meters.
618	1,672,255 square meters.
619	1,672,255 square meters.
620	1,672,255 square meters.
621	116,306 kilograms.
622	1,672,255 square meters.
624	1,672,255 square meters.
625	1,672,255 square meters.
626	1,672,255 square meters.
627	1,672,255 square meters.
628	1,672,255 square meters.
629	1,672,255 square meters.
630	1,176,471 dozen.
632	434,783 dozen pairs.
636	140,000 dozen.
642	249,048 dozen.
643	444,444 numbers.
644	444,444 numbers.
649	416,667 dozen.
650	39,216 dozen.
659–S	145,150 kilograms.
659–V	145,150 kilograms.
659–O	145,150 kilograms.
665	1,858,061 square meters.
666	116,306 kilograms.
669	116,306 kilograms.
670	453,592 kilograms.

[1] Category 659–S: only HTS numbers 6112.31.0010, 6112.31.0020, 6112.41.0010, 6112.41.0020, 6112.41.0030, 6112.41.0040, 6211.11.1010, 6211.11.1020, 6211.12.1010 and 6211.12.1020.

[2] Category 659–V: only HTS numbers 6110.30.1030, 6110.30.1040, 6110.30.2030, 6110.30.2040, 6110.30.3030, 6110.30.3035, 6110.90.0052, 6110.90.0054, 6201.93.2020, 6202.93.2020, 6211.33.0054 and 6211.43.0076.

[3] Category 659–O: all HTS numbers except 6112.31.0010, 6112.31.0020, 6112.41.0010, 6112.41.0020, 6112.41.0030, 6112.41.0040, 6211.11.1010, 6211.11.1020, 6211.12.1010, 6211.12.1020 (Category 659–S); 6110.30.1030, 6110.30.1040, 6110.30.2030, 6110.30.2040, 6110.30.3030, 6110.30.3035, 6110.90.0052, 6110.90.0054, 6201.93.2020, 6202.93.2020, 6211.33.0054 and 6211.43.0076 (Category 659–V).

Imports charged to these category limits for the period January 1, 1993 through December 31, 1993 shall be charged against those levels of restraint to the extent of any unfilled balances. In the event the limits established for that period have been exhausted by previous entries, such goods shall be subject to the levels set forth in this directive.

The conversion factor for merged Categories 352/652 is 11.3 square meters equivalent per dozen.

The limits set forth above are subject to adjustment in the future pursuant to the provisions of the bilateral agreement, effected by exchange of notes dated May 31 and June 5, 1986, as amended and extended, between the Governments of the United States and the Republic of Singapore.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 93–30587 Filed 12–14–93; 8:45 am]

BILLING CODE 3510–DR–F

Adjustment of Import Limits for Certain Cotton, Wool, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textile Products Produced or Manufactured in Taiwan

December 9, 1993.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: December 16, 1993.

FOR FURTHER INFORMATION CONTACT: Jennifer Aldrich, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–6719. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The current limits for certain categories are being adjusted, variously, for swing, special shift and carryforward.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 57 FR 54976, published on November 23, 1992). Also see 57 FR 53885, published on November 13, 1992.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

December 9, 1993.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on November 6, 1992, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in Taiwan and exported during the twelve-month period which began on January 1, 1993 and extends through December 31, 1993.

Effective on December 16, 1993, you are directed to amend further the directive dated November 6, 1992 to adjust the limits for the following categories, as provided under the terms of the current bilateral agreement, effected by exchange of notes dated August

21, 1990 and September 28, 1991, as amended:

Category	Adjusted twelve-month limit [1]
Group I	
200–224, 225/317/326, 226, 227, 229, 300/301/607, 313–315, 360–363, 369–L/670–L/870 [2], 369–S [3], 369–O [4], 400–414, 464–469, 600–606, 611, 613/614/615/617, 618, 619/620, 621–624, 625/626/627/628/629, 665, 666, 669–P [5], 669–T [6], 669–O [7], 670–H [8] and 670–O [9], as a group.	588,856,578 square meters equivalent.
Sublevels in Group I	
218	20,313,821 square meters.
225/317/326	35,991,945 square meters.
363	12,613,203 numbers.
613/614/615/617	18,199,647 square meters.
619/620	13,243,448 square meters.
625/626/627/628/629	17,406,665 square meters.
Group I subgroup	
200, 219, 313, 314, 315, 361, 369–S and 604, as a group.	132,366,469 square meters equivalent.
Within Group I subgroup	
200	657,837 kilograms.
219	14,971,729 square meters.
Sublevels in Group II	
239	5,594,380 kilograms.
331	389,073 dozen pairs.
338/339	890,722 dozen.
340	1,297,067 dozen.
347/348	1,545,440 dozen of which not more than 1,319,690 dozen shall be in Categories 347–W/348–W [10].
352/652	2,905,161 dozen.
435	21,628 dozen.
444	108,510 numbers.
445/446	140,011 dozen.
631	4,907,631 dozen pairs.
633/634/635	1,773,247 dozen of which not more than 1,046,217 dozen shall be in Categories 633/634 and not more than 924,745 dozen shall be in Category 635.
638/639	6,791,363 dozen.
642	920,059 dozen.
644	734,628 numbers.
647/648	5,452,639 dozen of which not more than 5,189,462 dozen shall be in Categories 647–W/648–W [11].
Group II subgroup	
333/334/335, 341, 342, 350/650, 351, 447/448, 636, 641 and 651, as a group.	74,793,155 square meters equivalent.
Within Group II subgroup	
342	152,924 dozen.
351	424,619 dozen.
447/448	19,562 dozen.
651	417,776 dozen.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1992.

[2] Category 870; Category 369–L: only HTS numbers 4202.12.4000, 4202.12.8020, 4202.12.8060, 4202.92.1500, 4202.92.3015 and 4202.92.6090; Category 670–L: only HTS numbers 4202.12.8030, 4202.12.8070, 4202.92.3020, 4202.92.3030 and 4202.92.9025.

[3] Category 369–S: only HTS number 6307.10.2005.

[4] Category 369–O: all HTS numbers except 4202.12.4000, 4202.12.8020, 4202.12.8060, 4202.92.1500, 4202.92.3015, 4202.92.6090 (Category 369–L); and 6307.10.2005 (Category 369–S).

[5] Category 669–P: only HTS numbers 6305.31.0010, 6305.31.0020 and 6305.39.0000.

[6] Category 669–T: only HTS numbers 6306.12.0000, 6306.19.0010 and 6306.22.9030.

[7] Category 669–O: all HTS numbers except 6305.31.0010, 6305.31.0020, 6305.39.0000 (Category 669–P); 6306.12.0000, 6306.19.0010 and 6306.22.9030 (Category 669–T).

[8] Category 670–H: only HTS numbers 4202.22.4030 and 4202.22.8050.

[9] Category 670–O: all HTS numbers except 4202.22.4030 4202.22.8050 (Category 670–H); 4202.12.8030, 4202.12.8070, 4202.92.3020, 4202.92.3030 and 4202.92.9025 (Category 670–L).

[10] Category 347–W: only HTS numbers 6203.19.1020, 6203.19.4020, 6203.22.3020, 6203.22.3030, 6203.42.4005, 6203.42.4010, 6203.42.4015, 6203.42.4025, 6203.42.4035, 6203.42.4045, 6203.42.4050, 6203.42.4060, 6203.49.3020, 6210.40.2033, 6211.20.1520, 6211.20.3010 and 6211.32.0040; Category 348–W: only HTS numbers 6204 12.0030, 6204.19.3030, 6204.22.3040, 6204.22.3050, 6204.29.4034, 6204.62.3000, 6204.62.4005, 6204.62.4010, 6204.62.4020, 6204.62.4030, 6204.62.4040, 6204.62.4050, 6204.62.4055, 6204.62.4065, 6204.69.3010, 6204.69.9010, 6210.50.2033, 6211.20.1550, 6211.20.6010, 6211.42.0030 and 6217.90.0050.

[11] Category 647–W: only HTS numbers 6203.23.0060, 6203.23.0070, 6203.29.2030, 6203.29.2035, 6203.43.2500, 6203.43.3500, 6203.43.4010, 6203.43.4020, 6203.43.4030, 6203.43.4040, 6203.49.1500, 6203.49.2010, 6203.49.2030, 6203.49.2040, 6203.49.2060, 6203.49.3030, 6210.40.1035, 6211.20.1525, 6211.20.3030 and 6211.33.0030; Category 648–W: only HTS numbers 6204.23.0040, 6204.23.0045, 6204.29.2020, 6204.29.2025, 6204.29.4038, 6204.63.2000, 6204.63.3000, 6204.63.3510, 6204.63.3530, 6204.63.3532, 6204.63.3540, 6204.69.2510, 6204.69.2530, 6204.69.2530, 6204.69.2540, 6204.69.2560, 6204.69.3030, 6204.69.9030, 6210.50.1035, 6211.20.1555, 6211.20.6030, 6211.43.0040 and 6217.90.0060.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 93–30588 Filed 12–14–93; 8:45 am]

BILLING CODE 3510–DR–F

DEPARTMENT OF DEFENSE

Public Information Collection Requirement Submitted to OMB for Review

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C., chapter 35).

Title, applicable form, and OMB control number: Record of Arrivals and Departures of Vessels at Marine Terminals; ENG Form 3926; OMB Control Number 0710–0005.

Type of request: Reinstatement.

Number of respondents: 600.

Responses per respondent: 12.

Annual responses: 7,200.

Average burden per response: 30 minutes.

Annual burden hours: 3,600.

Needs and uses: The U.S. Army Corps of Engineers (USACE) utilizes information collected on ENG Form 3926, in conjunction with ENG Form 3925, as its basic sources of input to conduct its Waterborne Commerce Statistics Program. The annual publication, "Waterborne Commerce of the United States," Parts 1–5, are the end result of this statistics program.

Affected public: Businesses of other for-profit, Small Businesses or organizations.

Frequency: Monthly.

Respondent's obligation: Voluntary.

OMB desk officer: Mr. Matthew Mitchell. Written comments and

recommendations on the proposed information collection should be sent to Mr. Mitchell at the Office of Management and Budget, Desk Officer for DoD, room 3019, New Executive Office Building, Washington, DC 20503.

DOD clearance officer: Mr. William P. Pearce. Written requests for copies of the information collection proposal should be sent to Mr. Pearce, WHS/DIOR, 1215 Jefferson Davis Highway, suite 1204, Arlington, VA 22202–4302.

Dated: December 9, 1993.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 93–30507 Filed 12–14–93; 8:45 am]

BILLING CODE 5000–04–M

Public Information Collection Requirement Submitted to OMB for Review

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C., chapter 35).

Title, applicable form, and OMB control number: Vessel Operation Report; ENG Forms 3925 and 3925B; OMB Control Number 0710–0006.

Type of request: Reinstatement.

Number of respondents: 390—ENG Form 3925; 1,195—ENG Form 3925B.

Responses per respondent: 142—ENG Form 3925; 100—ENG Form 3925B.

Annual responses: 55,380—ENG Form 3925; 119,500—ENG Form 3925B.

Average burden per response: 23 minutes—ENG Form 3925; 18 minutes—ENG Form 3925B.

Annual burden hours: 57,635 (Includes 325 additional hours for input of electronically reported data.)

Needs and uses: The U.S. Army Corps of Engineers (USACE) utilizes the information collected on ENG Forms 3925 and 3925B to conduct its Waterborne Commerce Statistics Program. The annual publication, "Waterborne Commerce of the United States," Parts 1–5, are the end result of this statistics program. The data constitutes the sole source of statistics for domestic vessel movements of freight and passengers on U.S. navigable waterways and harbors, and is used in determining harbor maintenance taxes, as authorized by P.L. 99–662, "Water Resources Development Act of 1986."

Affected public: Businesses of other for-profit, Small Businesses or organizations.

Frequency: Monthly.

Respondent's obligation: Mandatory.

OMB desk officer: Mr. Matthew Mitchell.

Written comments and recommendations on the proposed information collection should be sent to Mr. Mitchell at the Office of Management and Budget, Desk Officer for DoD, room 3019, New Executive Office Building, Washington, DC 20503.

DOD clearance officer: Mr. William P. Pearce.

Written requests for copies of the information collection proposal should be sent to Mr. Pearce, WHS/DIOR, 1215 Jefferson Davis Highway, suite 1204, Arlington, VA 22202–4302.

Dated: December 9, 1993.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 93–30508 Filed 12–14–93; 8:45 am]

BILLING CODE 5000–04–M

Office of the Secretary

Joint Military Intelligence College Board of Visitors; Renewal

ACTION: Renewal of the Board of Visitors, Joint Military Intelligence College.

SUMMARY: The Board of Visitors, Joint Military Intelligence College (BovJMIC) was renewed, effective November 27, 1993, in consonance with the public interest, and in accordance with the provisions of Public Law 92–463, the "Federal Advisory Committee Act."

The BovJMIC provides the Secretary of Defense, Director, Defense Intelligence Agency (DIA), and the Commandant, Joint Military Intelligence College with independent, informed advice and recommendations on matters related to policy, mission, accreditation, faculty, students, facilities, curricula, educational methods, research, and administration, in connection with the College.

The BovJMIC will continue to be composed of approximately ten members, both government and private individuals, who are acclaimed experts in national and military intelligence matters. A fairly balanced membership will be obtained in terms of the points of view represented and the functions to be performed, and will include retired military officers of general/flag rank, distinguished representatives from academia and the Foreign Service, and former senior officials in the national intelligence community.

For further information on the BovJMIC, contact: Lantz M. Hokanson, Office of the Comptroller, DIA, (703) 695–7969.

Dated: December 10, 1993.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 93–30544 Filed 12–14–93; 8:45 am]

BILLING CODE 5000–04–M

Requests for Assistance and Payments Under the Uniformed Services Former Spouse's Protection Act; Address Change

AGENCY: Defense Finance and Accounting Service, Office of the Secretary, Department of Defense.

ACTION: Notice; address change.

SUMMARY: The Defense Finance and Accounting Service (DFAS) is giving notice that all requests for assistance under the Uniformed Services Former Spouse's Protection Act (USFSPA) and filing of requests for payments under the USFSPA for Air Force retirees and all garnishments for child support and alimony for Air Force retirees must be sent to Defense Finance and Accounting Service—Cleveland Center, Office of General Counsel, Code DGG, P.O. Box 998002, Cleveland, OH 44199–8002.

DATES: This action will be effective January 1, 1994.

ADDRESSES: Comments regarding this notice should be sent to Deputy Director Resource Management, Defense Finance and Accounting Service, 1931 Jefferson Davis Highway, Crystal Mall 3, room 416, Arlington, VA 22202–5000.

FOR FURTHER INFORMATION CONTACT: Mr. Joel Rossen at (216) 522–5301.

SUPPLEMENTARY INFORMATION: The payment of Air Force retired pay is being transferred from the DFAS Denver Center to the DFAS Cleveland Center. Therefore former spouse applications and garnishment orders for child support and alimony and the legal issues related thereto will be reviewed by the DFAS Office of General Counsel at the Cleveland Center.

Dated: December 10, 1993.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 93–30545 Filed 12–14–93; 8:45 am]

BILLING CODE 5000–04–M

Department of the Air Force

USAF Scientific Advisory Board; Meeting

The USAF Scientific Advisory Board of the 1994 Summer Study Committee will meet on 20–21 Dec 1993 from 8 a.m. to 5 p.m. at Dallas/Fort Worth Airport Marriott, TX.

The purpose of this meeting is to receive briefings, and hold discussions on projects related to 1994 Summer Study. This meeting will involve discussions of classified defense matters listed in Section 552b(c) of Title 5, United States Code, specifically subparagraph (1) thereof, and accordingly will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at (703) 697–4648.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 93–30528 Filed 12–14–93; 8:45 am]

BILLING CODE 3910-01-P

DEPARTMENT OF ENERGY

Energy Information Administration

Agency Information Collections Under Review by the Office of Management and Budget

AGENCY: Energy Information Administration, DOE.

ACTION: Notice of request submitted for review by the Office of Management and Budget.

SUMMARY: The Energy Information Administration (EIA) has submitted the energy information collection(s) listed at the end of this notice to the Office of Management and Budget (OMB) for review under provisions of the Paperwork Reduction Act (Pub. L. 96–511, 44 U.S.C. 3501 *et seq.*). The listing does not include collections of information contained in new or revised regulations which are to be submitted under section 3504(h) of the Paperwork Reduction Act, nor management and procurement assistance requirements collected by the Department of Energy (DOE).

Each entry contains the following information: (1) The sponsor of the collection; (2) Collection number(s); (3) Current OMB docket number (if applicable); (4) Collection title; (5) Type of request, e.g., new, revision, extension, or reinstatement; (6) Frequency of collection; (7) Response obligation, i.e., mandatory, voluntary, or required to obtain or retain benefit; (8) Affected public; (9) An estimate of the number of respondents per report period; (10) An estimate of the number of responses per respondent annually; (11) An estimate of the average hours per response; (12) The estimated total annual respondent burden; and (13) A brief abstract describing the proposed collection and the respondents.

DATES: Comments must be filed within 30 days of publication of this notice. If you anticipate that you will be submitting comments but find it difficult to do so within the time allowed by this notice, you should advise the OMB DOE Desk Officer listed below of your intention to do so, as soon as possible. The Desk Officer may be telephoned at (202) 395–3084. (Also, please notify the EIA contact listed below.)

ADDRESSES: Address comments to the Department of Energy Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, 726 Jackson Place NW., Washington, DC 20503. (Comments should also be addressed to the Office of Statistical Standards at the address below.)

FOR FURTHER INFORMATION AND COPIES OF RELEVANT MATERIALS CONTACT: Jay Casselberry, Office of Statistical Standards, (EI–73), Forrestal Building, U.S. Department of Energy, Washington, DC 20585. Mr. Casselberry may be telephoned at (202) 254–5348.

SUPPLEMENTARY INFORMATION: The energy information collection submitted to OMB for review was:

1. Energy Information Administration.
2. EIA–412, 759, 826, 860, 861, and 867.
3. 1905–0129.
4. Revision—Two revisions are proposed to the Form EIA–861, "Annual Electric Utility Report." The first addition is Part E, "Data Verification" to Schedule V, "Demand-Side Management Information," for information on data verification. The second is the addition of Schedule VII, "Fleet Vehicle Information," to the Form EIA–861 triennially. These data will provide an initial frame for vehicle fleets in the electric utility sector.
5. Electric Power Surveys.
6. Monthly (EIA–759, 826), Annually (EIA–412, 860, 861, and 867).
7. Mandatory.
8. State or local governments, Businesses or other for-profit, Federal agencies or employees.
9. 7,090 respondents.
10. 18,640 responses.
11. 4 hours per response.
12. 75,947 hours.
13. The electric power surveys collect information on capacity, generation, fuel consumption and stocks, prices, electric rates, construction costs, operating income, and revenue of electric utility companies. Data are published in various reports. Most respondents are electric utilities. (EIA–867, nonutility generating facilities).

Statutory Authority: Section 2(a) of the Paperwork Reduction Act of 1980, (Pub. L. No. 96–511), which amended chapter 35 of title 44 U.S.C. (See 44 U.S.C. 3506 (a) and (c)(1)).

Issued in Washington, DC, December 1, 1993.

Yvonne M. Bishop,

Director, Statistical Standards, Energy Information Administration.

[FR Doc. 93–30582 Filed 12–14–93; 8:45 am]

BILLING CODE 6450-01-P

Federal Energy Regulatory Commission

[Docket No. ER94–193–000, et al.]

Southern Electric Generating Company, et al.; Electric Rate, Small Power Production, and Interlocking Directorate Filings

December 8, 1993.

Take notice that the following filings have been made with the Commission.

1. Southern Electric Generating Company

[Docket No. ER94–193–000]

Take notice that on November 30, 1993, Southern Electric Generating Company tendered for filing an amendment to the Power Contract between it and Alabama Power Company and Georgia Power Company. The amendment revises the Power Contract to provide for automatically renewable terms. The amendment is proposed to become effective on June 1, 1994.

Comment date: December 22, 1993, in accordance with Standard Paragraph E at the end of this notice.

2. United Illuminating Company

[Docket No. ER94–195–000]

Take notice that on November 30, 1993, The United Illuminating Company (UI) submitted for informational purposes all individual Purchase Agreements executed under UI's Wholesale Electric Sales Tariff, FERC Electric Tariff Original Volume No. 2 during the six-month period of May 1, 1993, through October 31, 1993.

Comment date: December 22, 1993, in accordance with Standard Paragraph E at the end of this notice.

3. Northeast Utilities Service Company

[Docket Nos. ER93–902–000 and ER93–915–000]

Take notice that on December 2, 1993, Northeast Utilities Service Company (NU) tendered for filing a response to a deficiency letter issued by the Commission Staff. The response includes: (1) Additional support for the rates contained in the power sale agreements between NU System

Companies and UNITIL Power Corporation (UNITIL) and between NU System Companies and the Princeton Municipal Light Department (Princeton); (2) Amendments to the power sale agreements between NU System Companies and Princeton; and (3) Amendments to three Service Agreements regarding service under NU's Transmission Tariff No. 1. These Service Agreements provide for transmission to the NU System Companies for their power sales to UNITIL and Princeton. NU does not foresee the incurrence of Out of Rate costs associated with this transmission service. NU states that its filing is in accordance with the Commission's filing requirements and that copies of the filing have been mailed to UNITIL and Princeton.

Comment date: December 22, 1993, in accordance with Standard Paragraph E at the end of this notice.

4. PSI Energy, Inc.

[Docket No. ER93–806–001]

Take notice that PSI Energy, Inc. (PSI) and The City of Piqua, Ohio on December 1, 1993, tendered for filing amended Service Schedules in the FERC filing in Docket No. ER93–806–001 to comply with a FERC Letter Order.

Copies of the filing were served on The City of Piqua, Ohio, the Public Utilities Commission of Ohio and the Indiana Utility Regulatory Commission.

Comment date: December 22, 1993, in accordance with Standard Paragraph E at the end of this notice.

5. Tampa Electric Company

[Docket No. ER94–207–000]

Take notice that on December 2, 1993, Tampa Electric Company (Tampa Electric) tendered for filing a Letter Agreement that amends an existing Letter of Commitment providing for the sale by Tampa Electric to the Kissimmee Utility Authority (Kissimmee) of capacity and energy from Tampa Electric's Big Bend Station. The tendered Letter Agreement extends the term of the commitment and specifies the level of committed reserved capacity for the extended term.

Tampa Electric proposes an effective date of April 1, 1994, for the Letter Agreement.

Copies of the filing have been served on Kissimmee and the Florida Public Service Commission.

Comment date: December 22, 1993, in accordance with Standard Paragraph E at the end of this notice.

6. Western Resources, Inc.

[Docket No. ER94–194–000]

Take notice that on November 30, 1994, Western Resources, Inc. (WRI) tendered for filing amendments to the transmission agreement between WRI and Missouri Public Service, a division of UtiliCorp United Inc. (MPS) and the transmission agreement between WRI and WestPlains Energy, also a division of UtiliCorp United Inc. (WPE). WRI states that the amendments provide additional scheduling rights to MPS and WPE which will permit UtiliCorp United Inc. to more efficiently utilize the generating resources of its divisions. WRI requests an effective date of February 1, 1993.

Notice of the filing has been served upon MPS, WPE, UtiliCorp United Inc., and the Kansas Corporation Commission.

Comment date: December 22, 1993, in accordance with Standard Paragraph E at the end of this notice.

7. Ogden Martin Systems of Clark Limited Partnership

[Docket No. EL94–11–000]

Take notice that on November 22, 1993, Ogden Martin Systems of Clark Limited Partnership tendered for filing a Petition for Declaratory Order disclaiming jurisdiction under sections 201(b)(1) and 201(e) of the Federal Power Act (FPA), 16 U.S.C. 824(b)(1), 824(e) (1988), over Ogden Clark with respect to its provision of day-to-day operation and maintenance services, pursuant to an operation and maintenance agreement between Ogden Clark and Ohio Edison Company.

Comment date: December 23, 1993, in accordance with Standard Paragraph E at the end of this notice.

8. Kentucky Utilities Company

[Docket No. ER94–209–000]

Take notice that Kentucky Utilities Company (KU) filed on December 1, 1993, a Notice of Termination of its Interconnection Agreement with East Kentucky Power Cooperative, Inc. (EKPC), and a new Interconnection Agreement designed to supersede the terminated agreement. KU requests an effective date of February 1, 1994, for the new Interconnection Agreement.

Comment date: December 22, 1993, in accordance with Standard Paragraph E at the end of this notice.

9. Central Vermont Public Service Corporation

[Docket No. ER94–192–000]

Take notice that on November 30, 1993, Central Vermont Public Service Corporation (CVPS) tendered for filing the Forecast 1994 Cost Report required under Paragraph Q–2 on Original Sheet o. 19 of the Rate Schedule FERC No. 135 (RS–2 Rate Schedule) under which CVPS sells electric power to Connecticut Valley Electric Company Inc. (Customer). CVPS states that the Cost Report reflects changes to the RS–2 rate schedule which were approved by the Commission's June 6, 1989 order in Docket No. ER88–456–000.

Comment date: December 22, 1993, in accordance with Standard Paragraph E at the end of this notice.

10. Maine Public Service Company

[Docket No. ER94–210–000]

Take notice that on December 1, 1993, Maine Public Service Company (Maine Public) filed executed Service Agreements with Central Maine Power Company, Unitil Power Corporation and Fitchburg Gas & Electric Light Company. Maine Public states that the service agreements are being submitted pursuant to its tariff provision pertaining to the short-term non-firm sale of capacity and energy which establishes a ceiling rate at Maine Public's cost of service for the units available for sale.

Maine Public has requested that the service agreements become effective on December 1, 1993 and requests waiver of the Commission's regulations regarding filing.

Comment date: December 22, 1993, in accordance with Standard Paragraph E at the end of this notice.

11. Citizens Utilities Company

[Docket No. ER93–889–000]

Take notice that Citizens Utilities Company (Citizens) on December 1, 1993, tendered for filing an amendment to its filing in the above-captioned docket. The amendment serves to address certain questions raised by Commission Staff concerning the original filing.

Comment date: December 22, 1993, in accordance with Standard Paragraph E at the end of this notice.

12. Central Vermont Public Service Corporation

[Docket No. ER94–196–000]

Take notice that on November 30, 1993, Central Vermont Public Service Corporation (CVPS) tendered for filing the Forecast 1994 Cost Report required under Article 2.3 on Second Revised Sheet No. 18 of FERC Electric Tariff, Original Volume No. 3, of CVPS under which CVPS provides transmission and distribution service to the following Customers:

Vermont Electric Cooperative, Inc.,

Lyndonville Electric Department,
Village of Ludlow Electric Light Department,
Village of Johnson Water and Light Department,
Village of Hyde Park Water and Light Department,
Rochester Electric Light and Power Company,
Woodsville Fire District Water and Light Department.

Comment date: December 23, 1993, in accordance with Standard Paragraph E at the end of this notice.

13. Allegheny Power Service Corporation on behalf of Monongahela Power Company, The Potomac Edison Company, West Penn Power Company (The APS Companies)

[Docket No. ER94–211–000]

Take notice that on December 2, 1993, Allegheny Power Service Corporation on behalf of Monongahela Power Company, The Potomac Edison Company and West Penn Power Company (The APS Companies), filed a Standard Transmission Service Agreement to add Niagara Mohawk Power Corporation to The APS Companies' Standard Transmission Service Rate Schedule which has been accepted for filing by the Federal Energy Regulatory Commission. The proposed effective date when Niagara Mohawk Power Corporation may take service under the proposed rate schedule is December 1, 1993.

Copies of the filing have been provided to the Public Utilities Commission of Ohio, the Pennsylvania Public Utility Commission, the Maryland Public Service Commission, the Virginia State Corporation Commission, the West Virginia Public Service Commission, New York Public Service Commission and all parties of record in Docket No. ER91–189–000.

Comment date: December 22, 1993, in accordance with Standard Paragraph E at the end of this notice.

14. Northeast Utilities Service Company

[Docket No. ER94–206–000]

Take notice that on December 2, 1993, Northeast Utilities Service Company (NUSCO) tendered for filing a Service Agreement to provide non-firm transmission service to Montaup Electric Company (Montaup) under the NU System Companies' Transmission Service Tariff No. 2.

NUSCO requests an effective date of January 1, 1994.

Comment date: December 22, 1993, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 93–30520 Filed 12–14–93; 8:45 am]

BILLING CODE 6717–01–P

[Docket No. CP94–119–000, et al.]

Mississippi River Transmission Corp., et al.; Natural Gas Certificate Filings

December 8, 1993.

Take notice that the following filings have been made with the Commission:

1. Mississippi River Transmission Corporation

[Docket No. CP94–119–000]

Take notice that on December 6, 1993, Mississippi River Transmission Corporation (MRT), 9900 Clayton Road, St. Louis, Missouri 63124, filed in Docket No. CP94–119–000 a request pursuant to §§ 157.205 and 157.212 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.212) for authorization to add a delivery point to serve Illinois Power Company (IP), an existing transportation customer, under MRT's blanket certificate issued in Docket No. CP82–489–000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

MRT proposes to add a delivery point by installing a 2-inch tap and appurtenant facilities, to enable IP to serve Illinois American Water Company at Chouteau Island, Illinois. MRT states that the proposed delivery point will have the capacity to deliver up to 156 Mcf of natural gas on a peak day; however, estimates that only 400 Mcf of natural gas will be delivered on an annual basis at the proposed delivery point.

MRT states that the additional quantity of gas which will be provided through the proposed delivery point will not result in an increase in the daily or annual quantities that MRT is authorized to deliver to IP.

MRT further states that the cost of the facilities to be installed is estimated to be $12,420, which will be reimbursed by IP.

Comment date: January 24, 1994, in accordance with Standard Paragraph G at the end of this notice.

2. Sea Robin Pipeline Company

[Docket No. CP94–118–000]

Take notice that on December 3, 1993, Sea Robin Pipeline Company (Sea Robin), Post Office Box 2563, Birmingham, Alabama 35202–2563, filed in Docket No. CP94–118–000 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon the transportation service it renders under its Rate Schedule X–3 on behalf of Columbia Gas Transmission Corporation (Columbia Gas), effective as of November 28, 1993, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Sea Robin states that it has provided firm transportation service of up to 15,000 Mcf per day on behalf of Columbia Gas pursuant to Sea Robin's Rate Schedule X–3 from South Marsh Island Block 38, East Cameron Block 335 and Eugene Island Block 313, offshore Louisiana, to delivery points onshore at Erath, Louisiana. Sea Robin further states that such service was provided pursuant to an agreement dated October 19, 1979, which primary term expired November 28, 1990. Sea Robin says that since Columbia Gas requested termination of the service effective November 28, 1993, Sea Robin has requested that the abandonment of Rate Schedule X–3 be effective November 28, 1993.

No facilities are proposed to be abandoned herein.

Comment date: December 29, 1993, in accordance with Standard Paragraph F at the end of this notice.

3. Mangum Brick Company, Inc. v. Arkansas Energy Resources, Inc.

[Docket No. CP94–111–000]

Take notice that on December 1, 1993, Mangum Brick Company, Inc. (MBC), P.O. Box 296 Mangum, Oklahoma 73554, filed in Docket No. CP94–111–000, pursuant to Rule 206 of the Commission's Rules of Practice and Procedure (18 CFR 385.206), a complaint against Arkansas Energy Resources, Inc. (AER) alleging violations of the Natural Gas Act and part 284 of

the Commission's Regulations, all as more fully set forth in the complaint which is on file with the Commission and open to public inspection.

MBC is an Oklahoma corporation with its principal place of business, one mile north of Mangum, Oklahoma. MBC is a brick manufacturer and receives natural gas service from Arkansas Louisiana Gas Company, Inc. (ALG).

MBC seeks to have AER construct a mainline tap on one of two lines that cross MBC's property. MBC alleges that it applied to AER in August 1993 for a mainline tap and has not received a satisfactory response. MBC requests that the Commission order AER to construct the tap, provide service and require AER to pay for all the facility installation costs. Further, MBC requests that the Commission investigate what MBC states is discriminatory and possible illegal actions made by AER and ALG from 1985 through and including 1993 in regard to their dealings with Acme Brick Co. and the many other corporations in Arkansas.

Comment date: January 7, 1994, in accordance with the first paragraph of Standard Paragraph F at the end of this notice. Respondent's answer to the complaint shall be due on or before January 7, 1994.

Standard Paragraphs

F. Any person desiring to be heard or to make any protest with reference to said application should on or before the comment date, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and/or permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 93–30521 Filed 12–14–93; 8:45 am]

BILLING CODE 6717–01–P

[Docket No. RP94–78–000]

Algonquin Gas Transmission Co.; Proposed Changes in FERC Gas Tariff

December 9, 1993.

Take notice that on December 7, 1993, Algonquin Gas Transmission Company (Algonquin), tendered for filing as part of its FERC Gas Tariff, Fourth Revised Volume No. 1, the following revised tariff sheets to become effective January 7, 1994:

Second Revised Sheet No. 97
Alt Second Revised Sheet No. 97

Algonquin states that the purpose of this filing is to provide for the recovery of certain transition costs associated with upstream capacity retained by Algonquin. Specifically, Algonquin seeks to recover gas supply realignment costs (GSR Costs) associated with retained capacity that are to be paid by Algonquin to Texas Eastern Transmission Corporation (Texas Eastern). Algonquin requests that the Commission waive 154.22 of the Commission's regulations to the extent necessary in order to permit this application to take effect on January 7, 1994.

Algonquin states that copies of this filing were mailed to all customers of Algonquin and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with § 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before December 16, 1993. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the public reference room.

Lois D. Cashell,

Secretary.

[FR Doc. 93–30522 Filed 12–14–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP94–120–000]

Columbia Gas Transmission Corp.; Request Under Blanket Authorization

December 8, 1993.

Take notice that on December 6, 1993, Columbia Gas Transmission Corporation (Columbia), 1700 MacCorkle Avenue, SE., Charleston, West Virginia 25314–1599, filed a prior notice request with the Commission in Docket No. CP94–120–000 pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (NGA) for authorization to construct and operate eight delivery points needed to provide firm transportation service under Part 284 of the Commission's Regulations and under Columbia's blanket certificates issued in Docket Nos. CP83–76–000 and CP86–240–000 pursuant to section 7 of the NGA, all as more fully set forth in the request which is open to the public for inspection.

Columbia proposes to construct and operate eight delivery points needed to provide firm transportation service to two Columbia Gas of Ohio, Inc. (COH) and six Mountaineer Gas Company (MGC) residential customers. Columbia proposes to deliver gas to COH at one delivery point each in Medina and Trumbell Counties, Ohio, for residential use. Columbia also proposed to delivery gas to MGC at one delivery point in Cabell, Kanawha, Logan, and Wayne Counties, and two delivery points in

Lincoln County, all in West Virginia. Columbia would delivery up to 1.5 dekatherms equivalent of natural gas per peak day and 150 dekatherms annually to COH and MGC for each customer under its existing authorized FERC Rate Schedules and entitlements. Columbia estimates that it would spend $150 to install each delivery point and would treat the costs as an operating and maintenance expense.

Columbia states that the natural gas quantities it would deliver through the proposed delivery points would be within Columbia's authorized level of service and would not have an adverse impact upon its existing customers.

Any person or the Commission's staff may, within 45 days after the Commission has issued this notice, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the NGA (18 CFR 157.205) a protest to the request. If no protest is filed within the allowed time, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the NGA.

Lois D. Cashell,

Secretary.

[FR Doc. 93–30523 Filed 12–14–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP93–204–000]

Texas Eastern Transmission Corp.; Technical Conference

December 9, 1993.

In the Commission's order issued on October 29, 1993, in the above-captioned proceeding, the Commission held that the filing raises issues for which a technical conference is to be convened. The conference to address the issues has been scheduled for Thursday, January 6, 1994, at 10 a.m. in a room to be designated at the offices of the Federal Energy Regulatory Commission, 810 First Street, NE., Washington, DC 20426.

All interested persons and Staff are permitted to attend.

Lois D. Cashell,

Secretary.

[FR Doc. 93–30524 Filed 12–14–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP89–183–053]

Williams Natural Gas Co., Proposed Changes in FERC Gas Tariff

December 9, 1993.

Take notice that on December 6, 1993, Williams Natural Gas Company (WNG) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets to become effective February 1, 1994:

First Revised Sheet Nos. 119, 129–131. 224–228, and 264

WNG states that on September 23, 1993, it filed a Stipulation and Agreement (S&A) in the above-referenced dockets. By order issued November 19, 1993, the Commission approved the S&A. WNG also states that First Revised Sheet Nos. 119, 130, 225, 226, and 264 are being filed in accordance with Article I of the S&A. WNG states that First Revised Sheet Nos. 129, 131, 224, 227, and 228 are also being filed for pagination purposes.

WNG states that a copy of its filing was served on all participants listed on the service lists maintained by the Commission in the docket referenced above and on all of WNG's jurisdictional customers and interested state commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests should be filed on or before December 16, 1993. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the public reference room.

Lois D. Cashell,

Secretary.

[FR Doc. 93–30525 Filed 12–14–93; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–4810–2]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), this notice announces the Office of Management and Budget's (OMB) responses to Agency PRA clearance requests.

FOR FURTHER INFORMATION CONTACT: Sandy Farmer (202) 260–2740.

SUPPLEMENTARY INFORMATION:

OMB Responses to Agency PRA Clearance Requests

OMB APPROVALS

EPA ICR No. 1628.02; Certified/Commercial Pesticide Applicator Survey; was approved 10/18/93; OMB No. 2070–0131; expires 10/31/96.

EPA ICR No. 0107.04; Source Compliance and State Action Reporting; was approved 10/19/93; OMB No. 2060–0096; expires 04/30/95.

EPA ICR No. 0220; was previously cleared under OMB No. 2090–0015. EPA ICR No. 0220.06; Information Requirements for 404 State Permit Applications, Prenotification Prior to Discharge or Reporting Pursuant to General Permit, Transmission of Information to Federal Agencies; 404 State Programs Annual Report; was approved 10/21/93. The new assigned OMB No. for 0220 is 2040–0168; expires 10/31/96.

EPA ICR No. 1415.02; NESHAP for Dry Cleaning Facilities/Perchloroethylene (PCE); was approved 10/21/93; OMB No. 2060–0234; expires 10/31/96.

EPA ICR No. 1167.04; NSPS for the Lime Manufacturing Industry, Subpart HH–Information Requirements; was approved 10/22/93; OMB No. 2060–0063; expires 10/31/96.

EPA ICR No. 1064.06; NSPS for Automobile and Light Duty Truck Surface Coating Operations—Subpart MM; was approved 10/22/93; OMB No. 2060–0034; expires 10/31/96.

EPA ICR No. 0663.05; NSPS for Beverage Can Surface Coating, Information Requirements—Subpart WW; was approved 10/22/93; OMB No. 2060–0001; expires 10/31/96.

EPA ICR No. 0659.06; NSPS for Surface Coating of Large Appliances—Subpart SS; was approved 10/22/93; OMB No. 2060–0108; expires 10/31/96.

EPA ICR No. 0658.05; NSPS for Pressure Sensitive Tape and Label Surface Coating Information Requirements—Subpart FF; was approved 10/22/93; expires 10/31/96.

EPA ICR No. 0616.05; Compliance Requirement for the Child-Resistant Packaging; was approved 10/22/93; OMB No. 2070–0052; expires 10/31/96.

EPA ICR No. 1156.06; NSPS for Synthetic Fiber Production Facilities, Information Request; was approved 10/26/93; OMB No. 2060–0059; expires 10/31/96.

EPA ICR No. 0002.07; Information Collection Request for the National Pretreatment Program; was approved 10/29/93; OMB No. 2040–0009; expires 10/31/96.

EPA ICR No. 0660.05; NSPS for Metal Coil Surface Coating Information Requirements—Subpart TT; was approved 10/31/93; OMB No. 2060–0107; expires 10/31/96.

EPA ICR No. 0574.06; Premanufacture Review Reporting and Exemption Requirements for New Chemical Substances and Significant New Use Reporting Requirements for Chemical Substances; was approved 11/01/93; OMB No. 2070–0012; expires 10/31/96.

EPA ICR No. 1204.05; Submission of Unreasonable Adverse Effects Information under Section 6(A)(2) of FIFRA; was approved 11/12/93; OMB No. 2070–0039; expires 11/30/96.

EPA ICR No. 0276.06; Application for an Experimental Use Permit (EUP) to Ship and Use Pesticides for Experimental Purposes Only; was approved 11/12/93; OMB No. 2070–0040; expires 11/30/96.

Correction to a Previous Approval

EPA ICR No. 0262.06; RCRA Hazardous Waste Permit Application and Modification, Part A; approved 09/24/93; OMB No. 2050–0034;expiration date is 09/30/96 instead of 09/30/93.

OMB Extension of Expiration Date

EPA ICR No. 0246; Contractor's Cumulative Claim and Reconciliation; OMB No. 2030–0016; expiration date was extended to 04/30/94.

Dated: December 8, 1993.

Paul Lapsley,

Director, Regulatory Management Division.

[FR Doc. 93–30575 Filed 12–14–93; 8:45 am]

BILLING CODE 6560–50–F

[FRL–4814–1]

Connecticut; Final Determination of Adequacy of State/Tribal Municipal Solid Waste Permit Program

AGENCY: Environmental Protection Agency.

ACTION: Notice of final determination of full program adequacy for the State of Connecticut's application.

SUMMARY: Section 4005(c)(1)(B) of the Resource Conservation and Recovery Act (RCRA), as amended by the Hazardous and Solid Waste Amendments (HSWA) of 1984, 42 U.S.C. 6945(c)(1)(B), requires states to develop and implement permit programs to ensure that municipal solid waste landfills (MSWLFs) which may receive hazardous household waste or small quantity generator waste will comply with the revised Federal MSWLF Criteria (40 CFR part 258). RCRA section 4005(c)(1)(C), 42 U.S.C. 6945(c)(1)(C), requires the Environmental Protection Agency (EPA) to determine whether states have adequate "permit" programs for MSWLFs, but does not mandate issuance of a rule for such determinations. EPA has drafted and is in the process of proposing a State/Tribal Implementation Rule (STIR) that will provide procedures by which EPA will approve, or partially approve, state/tribal landfill permit programs. The Agency intends to approve adequate state/tribal MSWLF permit programs as applications are submitted. Thus, these approvals are not dependent on final promulgation of the STIR. Prior to promulgation of the STIR, adequacy determinations will be made based on the statutory authorities and requirements. In addition, states/tribes may use the draft STIR as an aid in interpreting these requirements. The Agency believes that early approvals have an important benefit. Approved state/tribal permit programs provide interaction between the state/tribe and the owner/operator regarding site-specific permit conditions. Only those owners/operators located in state/tribes with approved permit programs can use the site-specific flexibility provided by 40 CFR part 258 to the extent the state/tribal permit program allows such flexibility. EPA notes that regardless of the approval status of a state/tribe and the permit status of any facility, the Federal landfill criteria will apply to all permitted and unpermitted MSWLF facilities.

The State of Connecticut applied for a determination of adequacy under section 4005 of RCRA, 42 U.S.C. 6945(c)(1)(C). EPA reviewed Connecticut's application and proposed a determination that Connecticut's MSWLF permit program is adequate to ensure compliance with the revised MSWLF Criteria. After consideration of all comments received, EPA is today issuing a final determination that the state's program is adequate.

EFFECTIVE DATE: The determination of adequacy for the State of Connecticut shall be effective on December 15, 1993.

FOR FURTHER INFORMATION CONTACT: EPA Region I, John F. Kennedy Federal Building, Boston, MA 02203, Attn: Mr. Charles Franks, mail code HER-CAN6, telephone (617) 573–9670.

SUPPLEMENTARY INFORMATION:

A. Background

On October 9, 1991, EPA promulgated revised Criteria for MSWLFs (40 CFR part 258). Subtitle D of RCRA, as amended by the Hazardous and Solid Waste Amendments of 1984 (HSWA), requires states to develop permitting programs to ensure that facilities comply with the Federal Criteria under 40 CFR part 258. Subtitle D also requires in section 4005(c)(1)(C), 42 U.S.C. 6945(c)(1)(C) that EPA determine the adequacy of state municipal solid waste landfill permit programs to ensure that facilities comply with the revised Federal Criteria. To fulfill this requirement, the Agency has drafted and is in the process of proposing a State/Tribal Implementation Rule (STIR). The rule will specify the requirements which state/tribal programs must satisfy to be determined adequate. EPA intends to approve state/tribal MSWLF permit programs prior to the promulgation of STIR. EPA interprets the requirements for states or tribes to develop "adequate" programs for permits or other forms of prior approval to impose several minimum requirements. First, each state/tribe must have enforceable standards for new and existing MSWLFs that are technically comparable to EPA's revised MSWLF criteria. Next, the state/tribe must have the authority to issue a permit or other notice of prior approval to all new and existing MSWLFs in its jurisdiction. The state/tribe also must provide for public participation in permit issuance and enforcement as required in section 7004(b) of RCRA, 42 U.S.C. 6974(b). Finally, the state/tribe must show that it has sufficient compliance monitoring and enforcement authorities to take specific action against any owner or operator that fails to comply with an approved MSWLF program.

EPA Regions will determine whether a state/tribe has submitted an "adequate" program based on the interpretation outlined above. EPA will provide more specific criteria for this evaluation when it proposes the State/Tribal Implementation Rule. States/Tribes must satisfy all of these requirements for all elements of a MSWLF program before they receive full approval for a MSWLF program.

B. State of Connecticut

On April 1, 1993, the State of Connecticut submitted a final application for adequacy determination for Connecticut's municipal solid waste landfill permit program. On August 6, 1993, EPA published a tentative determination of adequacy for all

portions of Connecticut's program. Further background on the tentative determination of adequacy appears in the August 6, 1993 **Federal Register** notice (58 FR 42071).

Along with the tentative determination, EPA announced the availability of the application for public comment. In addition, a public hearing was tentatively scheduled. Due to requests from commentors, a public hearing was held on September 23, 1993, at the state Legislative Office Building, in Hartford, Connecticut. The State participated in the public hearing held by the EPA.

C. Public Comment

EPA received the following written and oral public comments on the tentative determination of adequacy for Connecticut's MSWLF permit program.

Two commentors questioned whether Connecticut's program, particularly its siting and design policies, more than minimally satisfies 40 CFR part 258 requirements for RCRA approval. In reviewing Connecticut's program, it was not the position of EPA to differentiate between that which is minimally required for approval, and that which may in fact exceed minimum requirements. EPA's role is to evaluate the state's programs and decide if the state's requirements are no less stringent than the Federal requirements at 40 CFR part 258, thus ensuring safe disposal of Municipal Solid Waste. Although Connecticut may have an alternate strategy to MSW disposal, EPA has no authority to prevent a state from taking a more restrictive siting and design policy.

Three commentors indicated that Connecticut Department of Environmental Protection (DEP) policies on permitting, siting, design, groundwater monitoring, and corrective action for MSWLFs are controversial and should be allowed changes through the legislative process, if needed. Nothing precludes discussion and changes to the existing program by the legislature. However, in order to maintain today's approval, any changes must be approved by EPA.

Another commentor questioned four of the permitting standards. The four permitting standards require: the owner/operator to own or control the area for which the quality of groundwater would be affected; the use of the worst case scenario in which there is no liner; the use of maximum pollutant concentrations in leachate; and the elimination of attenuation prior to discharge.

The provisions in 40 CFR 258.55(g) require that the owner/operator must notify all property owners whose land has been impacted by contaminants that have migrated off-site. 40 CFR 258.55 also requires an assessment of corrective measures for that contamination. EPA interprets these provisions to require that an owner/operator shall not impact the quality of groundwater beyond its facility boundary. The provision requiring a point of compliance in 40 CFR 258.40(d) clarifies the Agency's position. Regarding the worst case conditions of no liner, maximum pollutant concentrations in leachate, and no attenuation prior to discharge, these conservative assumptions are critical to the EPA's approval of the dual liner and dual leachate collection system used by the State.

Further, the commentor asserts the State's groundwater monitoring strategy more than minimally satisfies the requirements for approval. The strategy requires that monitoring be conducted at the limits of the zone of influence in addition to the 150 meter point of compliance. Monitoring at the 150 meter point of compliance is satisfied by the state's strategy, and, nothing precludes a strategy which may be considered more protective than the Federal Criteria.

In addition, the commentor questioned the state's criteria for implementation of corrective measures which requires corrective action when constituents in the groundwater are detected in any concentration above background. As described earlier, EPA has determined that the state's groundwater monitoring strategy complies with the requirements of 40 CFR part 258. Additionally, Connecticut requires monitoring of more indicator parameters than just those listed in Appendix I and II of the Federal Criteria. The State has the authority to adopt a strategy that is more stringent than the Federal Criteria.

Two commentors expressed concern over the State's use of guidance in meeting the requirements for full approval of Connecticut's program. A State/Tribe's guidance documents may be used to supplement laws and regulations if the State/Tribe demonstrates that the guidance can be used to develop enforceable permits which will ensure compliance with 40 CFR part 258. The State of Connecticut has demonstrated that the use of guidance in the development of enforceable permits is allowed by State law and may be used to develop enforceable permits which will ensure compliance with 40 CFR part 258.

One commentor questioned whether the State's solid waste management plan meets Federal requirements. EPA evaluated the solid waste management plan and determined that the State's implementation of the plan has no effect on the requirements for approval under 40 CFR part 258.

One commentor currently owns and operates a landfill in Connecticut. Due to a groundwater classification adopted by the State, the facility will have to either ask the state to administratively change its groundwater classification for the facility or face closure. The commentor has urged the EPA to encourage the State of Connecticut to work with the landfill owners/operators on this issue. The Federal regulations for MSWLFs do not specifically require that landfills close, unless they do not meet the airport, floodplain and unstable area requirements of 40 CFR 258.16(a). EPA does not have the authority to prevent the State of Connecticut from imposing closure requirements that may be more protective of human health and the environment than those specified in 40 CFR part 258.

One commentor maintained that the use of the draft State/Tribal Implementation Rule (STIR) as guidance violates the Administrative Procedure Act (APA) requirements that a rule must go through notice and opportunity for comment. EPA does not believe that it is violating any requirements of the APA. The Agency is not utilizing the draft STIR as a regulation which binds either the Agency or the states/tribes. Instead, EPA is using the draft STIR as guidance for evaluating state/tribal permit programs and maintains its discretion to approve state/tribal permit programs utilizing the draft STIR and/or other criteria which assures compliance with 40 CFR part 258.

In addition, members of the public have an opportunity to comment on the criteria by which EPA assures the adequacy of state/tribal MSWLF permit programs, because the Agency discusses the criteria for approval of a permit program when it publishes each tentative determination notice in the **Federal Register**. In the tentative determination notice for approval of Connecticut's permit program, the Agency set forth for public comment the requirements for an adequate permit program (See 58 FR 41274).

D. Decision

After reviewing the public comments, I conclude that the State of Connecticut's application for adequacy determination meets all of the statutory and regulatory requirements established by RCRA. Accordingly, the State of Connecticut is granted a determination

of adequacy for all portions of its municipal solid waste permit program.

Connecticut will be using alternate, but equally effective methods, to ensure that provisions which are technically comparable and no less stringent than the revised Federal Criteria are being applied in Connecticut. The revised *Guidelines for Engineering Evaluations of Solid Waste Disposal Areas* are applicable to all existing MSWLFs and to all MSWLF permit applications effective July 1, 1993. To ensure compliance with all of the revised Federal Criteria, Connecticut has revised its existing *Guidelines for Engineering Evaluations of Solid Waste Disposal Areas* in the following areas, and will implement its MSWLF permit program through enforceable permit conditions.

1. Connecticut has revised its current permit requirements with the adoption of the following definitions as required by the revised Federal Criteria, (40 CFR 258.2): active life, active portion, owner, saturated zone, state, and waste management unit boundary.

2. Connecticut has revised its current permit requirements to comply with the new location restrictions of 40 CFR 258.10, 258.11. 258.12, 258.13, 258.14, 258.15, and 258.16, which pertain to airport safety, floodplains, wetlands, fault areas, seismic impact zones, unstable areas and closure of existing MSWLF units.

3. Connecticut has revised its current permit requirements to comply with the new operating criteria of 40 CFR 258.20, 258.23, 258.26, 258.28, 258.29, which describe procedures for excluding the receipt of hazardous waste, explosive gases control, run-on/run-off control systems, liquids restrictions, and recordkeeping requirements.

4. Connecticut has revised its current permit requirements to comply with the new groundwater monitoring and corrective action requirements of 40 CFR 258.50, 258.54, 258.55, 258.56, 258.57, which describe applicability, detection and assessment monitoring programs, assessment of corrective measures, and selection of remedy.

5. Connecticut has revised its current permit requirements to comply with the new closure and post-closure care requirements of 40 CFR 258.60, and 258.61.

6. Connecticut has revised its current permit requirements to comply with the new financial assurance requirements of 40 CFR 258.70, 258.71, 258.73, 258.74, which describe applicability and effective date, financial assurance for closure, corrective action, and allowable mechanisms.

The State of Connecticut is not asserting jurisdiction over Indian land recognized by the United States government for the purpose of this notice. Tribes recognized by the United States government are also required to comply with the terms and conditions found at 40 CFR part 258.

Section 4005(a) of RCRA, 42 U.S.C. 6945(a) provides that citizens may use the citizen suit provisions of section 7002 of RCRA, 42 U.S.C. 6972 to enforce the Federal MSWLF criteria in 40 CFR part 258 independent of any state/Tribal enforcement program. As EPA explained in the preamble to the final MSWLF criteria, EPA expects that any owner or operator complying with provisions in a state/tribal program approved by EPA should be considered to be in compliance with the Federal Criteria. See 56 FR 50978, 50995 (October 9, 1991).

Today's action takes effect on the date of publication. EPA believes it has good cause under section 553(d) of the Administrative Procedure Act, 5 U.S.C 553(d), to put this action into effect less than 30 days after publication in the **Federal Register**. All of the requirements and obligations in the State's program are already in effect as a matter of state law. EPA's action today does not impose any new requirements that the regulated community must begin to comply with. Nor do these requirements become enforceable by EPA as Federal law. Consequently, EPA finds that it does not need to give notice prior to making its approval effective.

Compliance With Executive Order 12866

The Office of Management and Budget has exempted this notice from the requirements of section 6 of Executive Order 12866.

Certification Under the Regulatory Flexibility Act

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that this approval will not have a significant economic impact on a substantial number of small entities. It does not impose any new burdens on small entities. This notice, therefore, does not require a regulatory flexibility analysis.

Authority: This notice is issued under the authority of section 4005 of the Solid Waste Disposal Act as amended; 42 U.S.C. 6946.

Patricia L. Meaney,

Acting Regional Administrator.

[FR Doc. 93–30576 Filed 12–14–93; 8:45 am]

BILLING CODE 6560–50–F

[OPP–00346; FRL–4182–4]

Guidance for Pesticides and Ground Water State Management Plans; Notice of Availability

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability.

SUMMARY: This notice announces the availability of EPA's final guidance for developing pesticide State Management Plans (SMPs). The *Guidance for Pesticides and Ground Water State Management Plans* provides assistance to states in developing Pesticide SMPs to protect ground water from contamination that may result in adverse effects to human health or the environment and to promote a degree of national consistency among state plans. States will be required to develop Pesticide SMPs through a chemical-specific regulatory action.

ADDRESSES: Copies of the State Mangement Plan Guidance are available at the public docket in Rm. 1132, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, Telephone number: 703–305–5805.

FOR FURTHER INFORMATION CONTACT: By mail: Linda Strauss, Field Operations Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 1100, Crystal Mall #2, 1921 Jefferson Davis Highway, Crystal City, VA 22202, 703–305–5239.

SUPPLEMENTARY INFORMATION: EPA intends to propose for public comment regulations that designate individual pesticides to be subject to EPA-approved State Management Plans as a condition of their legal sale and use.

List of Subjects

Environmental protection.

Dated: December 9, 1993.

Susan H. Wayland,

Acting Director, Office of Pesticide Programs.

[FR Doc. 93–30577 Filed 12–14–93; 8:45 am]

BILLING CODE 6560–50–F

[OPP–34048; FRL 4744–3]

Notice of Receipt of Requests for Amendments To Delete Uses in Certain Pesticide Registrations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In accordance with section 6(f)(1) of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA),

as amended, EPA is issuing a notice of receipt of request for amendment by registrants to delete uses in certain pesticide registrations.

DATES: Unless a request is withdrawn, the Agency will approve these use deletions and the deletions will become effective on March 15, 1994.

FOR FURTHER INFORMATION CONTACT: By mail: James A. Hollins, Office of Pesticide Programs (7502C), Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460. Office location for commercial courier delivery and telephone number: Room 216, Crystal Mall No. 2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703) 305–5761.

SUPPLEMENTARY INFORMATION:

I. Introduction

Section 6(f)(1) of FIFRA provides that a registrant of a pesticide product may at any time request that any of its pesticide registrations be amended to delete one or more uses. The Act further provides that, before acting on the request, EPA must publish a notice of receipt of any such request in the **Federal Register**. Thereafter, the Administrator may approve such a request.

II. Intent To Delete Uses

This notice announces receipt by the Agency of applications from registrants to delete uses in the eight pesticide registrations listed in the following Table 1. These registrations are listed by registration number, product names and the specific uses deleted. Users of these products who desire continued use on crops or sites being deleted should contact the applicable registrant before March 15, 1994, to discuss withdrawal of the applications for amendment. This 90 day period will also permit interested members of the public to intercede with registrants prior to the Agency approval of the deletion.

TABLE 1. — REGISTRATIONS WITH REQUESTS FOR AMENDMENTS TO DELETE USES IN CERTAIN PESTICIDE REGISTRATIONS

EPA Registration No.	Product Name	Delete From Label
000004–00059	Bonide Fruit Tree Spray	Cherries, apricots, peaches, grapes.
000004–00355	Bonide Home Orchard Spray	Cherries, peaches.
034704–00205	Clean Crop Malathion/Methoxychlor Spray	Apples, asparagus, carrots, melons, pears, plums, prunes, pumpkins, soybeans, watermelons.
050534–00008	BRAVO 500	Onions (green bunching), leeks, shallots.
050534–00023	BRAVO W-75	Green onions.
050534–00157	BRAVO 90DG	Onions (green bunching), leeks, shallots.
050534–00188	BRAVO 720	Onions (green bunching), leeks, shallots.
050534–00204	BRAVO ZN	Onions (green bunching), leeks, shallots.

The following Table 2 includes the names and addresses of record for all registrants of the products in Table 1, in sequence by EPA company number.

TABLE 2. — REGISTRANTS REQUESTING AMENDMENTS TO DELETE USES IN CERTAIN PESTICIDE REGISTRATIONS

Company No.	Company Name and Address
000004	Bonide Products Inc., 2 Wurz Avenue, Yorkville, NY 13495.
034704	Platte Chemical Co., c/o William M. Mahlburg, P.O. Box 667, 419 18th Street, Greeley, CO 80632.
050534	ISK Biotech Corporation, P.O. Box 8000, 5966 Heisley Road, Mentor, OH 44061.

III. Existing Stocks Provisions

The Agency has authorized registrants to sell or distribute product under the previously approved labeling for a period of 18 months after approval of the revision, unless other restrictions have been imposed, as in special review actions.

List of Subjects

Environmental protection, Pesticides and pest, product registrations.

Dated: December 1, 1993.

Douglas D. Campt,

Director, Office of Pesticide Programs.

[FR Doc. 93–30212 Filed 12–14–93; 8:45 am]

BILLING CODE 6560–50–F

[OPP–30340B; FRL–4741–1]

Tifton Innovation Corp.; Approval of a Pesticide Product Registration

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces Agency approval of an application submitted by Tifton Innovation Corporation, to register the pesticide product DR. BIOSEDGE containing an active ingredient not included in any previously registered product pursuant to the provisions of section 3(c)(5) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

FOR FURTHER INFORMATION CONTACT: By mail: Sidney C. Jackson, Acting Product Manager (PM) 21, Registration Division (7505C), Office of Pesticide Programs, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 227, CM #2, Environmental Protection Agency, 1921 Jefferson Davis Hwy, Arlington, VA 22202, (703–305–6900).

SUPPLEMENTARY INFORMATION: EPA issued a notice, published in the Federal Register of September 2, 1992 (57 FR 40186), which announced that Tifton Innovation Corp., P.O. Box 1753, Highway 82 West, Tifton, GA 31793, had submitted an application to register the pesticide product DR. BIOSEDGE (File Symbol 65263–R), containing a new active ingredient *Puccinia canaliculata* spores (ATCC #40199) at 90 percent, an active ingredient not

included in any previously registered product.

The application was approved on October 4, 1993, as DR. BIOSEDGE for use in all crop areas to control yellow nutsedge weeds (EPA Registration Number 65263–1).

The Agency has considered all required data on the risks associated with the proposed use of *Puccinia canaliculata* spores (ATCC #40199), and information on social, economic, and environmental benefits to be derived from such use. Specifically, the Agency has considered the nature of the chemical and its pattern of use, application methods and rates, and level and extent of potential exposure. Based on these reviews, the Agency was able to make basic health and safety determinations which show that use of *Puccinia canaliculata* spores (ATCC #40199) when used in accordance with widespread and commonly recognized practice, will not generally cause unreasonable adverse effects on the environment.

More detailed information on this registration is contained in a Chemical Fact Sheet on *Puccinia canaliculata* spores (ATCC #40199).

A copy of this fact sheet, which provides a summary description of the chemical, use patterns and formulations, science findings, and the Agency's regulatory position and rationale, may be obtained from the National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, VA 22161.

In accordance with section 3(c)(2) of FIFRA, a copy of the approved label and the list of data references used to support registration are available for public inspection in the office of the Product Manager. The data and other scientific information used to support registration, except for material specifically protected by section 10 of FIFRA, are available for public inspection in the Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 1132, CM #2, Arlington, VA 22202 (703–305–5805). Requests for data must be made in accordance with the provisions of the Freedom of Information Act and must be addressed to the Freedom of Information Office (A–101), 401 M St., SW., Washington, DC 20460. Such requests should: (1) Identify the product name and registration number and (2) specify the data or information desired.

Authority: 7 U.S.C. 136.

List of Subjects

Environmental protection, Pesticides and pests, Product registrations.

Dated: November 4, 1993.

Susan H. Wayland,

Acting Director, Office of Pesticide Programs.

[FR Doc. 93–30213 Filed 12–14–93; 8:45 am]

BILLING CODE 6560–50–F

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collection Requirement Submitted to Office of Management and Budget for Review

December 8, 1993.

The Federal Communications Commission has submitted the following information collection requirement to OMB for review and clearance under the Paperwork Reduction Act of 1980 (44 U.S.C. 3507).

Copies of this submission may be purchased from the Commission's copy contractor, International Transcription Service, Inc., 2100 M Street, NW., suite 140, Washington, DC 20037 (202) 857–3800. For further information on this submission contact Judy Boley, Federal Communications Commission (202) 632–0276. Persons wishing to comment on this information collection should contact Timothy Fain, Office of Management and Budget, room 3235 NEOB, Washington, DC 20503 (202) 395–3561.

OMB Number: 3060–0472.

Title: 470–512 MHz Mobile Loading.

Form Number: FCC Form 6027I.

Action: Extension of a currently approved collection.

Respondents: Individuals or households, state or local governments, nonprofit institutions and businesses or other for-profit (including small businesses).

Frequency of Response: On occasion reporting requirement.

Estimated Annual Burden: 250 responses; .25 hours average burden per response; 63 hours total annual burden.

Needs and Uses: The information contained on FCC Form 6027I is required by 47 CFR 90.313. Licenses are required to notify the Commission, within 8 months of license grant, of the actual number of mobile units in operation. The data is used by Commission staff in determining full capacity channel loading, making frequencies available for assignment and modifying or canceling licenses. The data collected ensures licensees are not authorized for more mobiles than they are actually using.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 93–30541 Filed 12–4–93; 8:45 am]

BILLING CODE 6712–01–M

[Report No. 1992]

Petitions for Reconsideration and Clarification of Actions in Rulemaking Proceeding

December 13, 1993.

Petitions for reconsideration and clarification have been filed in the Commission rulemaking proceeding listed in this Public Notice and published pursuant to 47 CFR § 1.429(e). The full text of these documents are available for viewing and copying in room 239, 1919 M Street, NW., Washington, DC or may be purchased from the Commission's copy contractor ITS, Inc. (202) 857–3800. Opposition to these petitions must be filed within 15 days of the date of public notice of the petitions in the **Federal Register**. See § 1.4(b)(1) of the Commission's rules (47 CFR 1.4(b)(1)). Replies to an opposition must be filed within 10 days after the time for filing oppositions has expired.

Subject: Amendment of the Commission's Rules to Establish New Personal Communications Services (GEN Docket No. 90–314, RM–7140, RM–7175, RM–7618).

Filed By: Gene A. Bechtel, Attorney for Advanced Cordless Technologies on 11–22–93 (and Supplement filed on 11–23–93).

Filed By: Robert J. Miller, Attorney for Alcatel Network System, Inc. on 12–08–93.

Filed By: David L. Nace, Attorney for Alliance of Rural Area Telephone and Cellular Service Providers on 12–08–93.

Filed By: J. Barclay Jones, Vice President, Engineering for American Personal Communications on 12–08–93.

Filed By: Wayne V. Black, Attorney for American Petroleum Institute on 12–08–93.

Filed By: Francine J. Berry, Attorney for American Telephone and Telegraph on 12–08–93.

Filed By: Frank M. Panek, Attorney for Ameritech on 12–08–93.

Filed By: Glenn S. Richards, Attorney for AMSC Subsidiary Corporation on 12–08–93.

Filed By: Alane C. Weixel, Attorney for Anchorage Telephone Utility on 12–08–93.

Filed By: James F. Lovette for Apple Computer, Inc. on 12–08–93.

Filed By: James R. Rand, Executive Director for Association of Public Safety Communications Official on 12–08–93.

Filed By: James H. Baker, Attorney for Bell Atlantic Personal Communications, Inc. on 12–08–93.

Filed By: William B. Barfield, Attorney for BellSouth Corporation on 12–08–93.

Filed By: Robert M. Jackson, General Partner for Blooston, Mordorfsky, Jackson & Dickens on 12–08–93.

Filed By: R. Phillip Baker, Executive Vice President for Chickasaw Telephone Co.; Cincinnati Bell Telephone Co.; Illinois Consolidated Telephone Co.; Milling Telephone Co.; and Roseville Telephone Co. on 12–08–93.

Filed By: David A. LaFuria, Attorney for Columbia Cellular Corp. on 12–08–93.

Filed By: Laura H. Phillips, Attorney for Comcast Corporation on 12–08–93.

Filed By: Nancy J. Thompson, Attorney for COMSAT Corporation on 12–08–93.

Filed By: Barry R. Rubens, Manager-Regulatory Affairs for Concord Telephone Co. on 12–08–93.

Filed By: Michael F. Altschul, Vice President, General Counsel for Cellular Telecommunications Industry Association on 12–08–93.

Filed By: Harold K. McCombs, Jr. for Duncan, Weinberg, Miller & Pembroke, P. C. on 11–22–93.

Filed By: David C. Jatlow, Attorney for Ericsson Corporation on 12–08–93.

Filed By: Audrey P. Rasmussen, Attorney for Florida Cellular RSA Limited Partnership on 11–22–93 (Erratum filed on 12–03–93).

Filed By: Kathy L. Shobert, Director Federal Regulatory Affairs for General Communications, Inc. on 12–08–93.

Filed By: Carl W. Northrop, Attorney for George E. Murray on 12–08–93.

Filed By: Gail L. Polivy, Attorney for GTE Service Corporation on 12–08–93.

Filed By: James U. Troup, Attorney for Iowa Network Services on 12–08–93.

Filed By: Michael Killen, President of Killen & Associates, Inc. on 11–24–93.

Filed By: Chandos A. Rypinski, President of LACE, Inc. on 12–08–93.

Filed By: Scott K. Morris, Vice President-Law for McCaw Cellular Communications, Inc. on 12–08–93.

Filed By: Larry A. Blosser, Attorney for MCI Telecommunications Corporation on 12–08–93.

Filed By: Timothy E. Welch, Attorney for Mebtel, Inc. on 11–19–93.

Filed By: Larry S. Solomon, Attorney for Metricom, Inc. on 12–08–93.

Filed By: Michael D. Kennedy, Director Regulatory Relations for Motorola, Inc. on 12–08–93.

Filed By: Paul R. Schwdler, Assistant Chief Regulatory Counsel for the Manager of the National Communications System on 12–08–93.

Filed By: David Cosson, Attorney for National Telephone Cooperative Association on 12–08–93.

Filed By: Edward R. Wholl, Attorney for NYNEX Corporation on 12–08–93.

Filed By: Robert S. Foosaner, Senior Vice President, Government Affairs for Nextel Communications, Inc. on 11–18–93.

Filed By: Stephen L. Goodman, Counsel for Northern Telecom Inc. on 12–08–93.

Filed By: Lisa M. Zaina, Attorney for Organization for the Protection and Advancement of Small Telephone Companies on 12–08–93.

Filed By: Theresa L. Cabral, Attorney for Pacific Bell and Nevada Bell on 12–08–93.

Filed By: David L. Nace, Attorney for Pacific Telecom Cellular, Inc. on 12–08–93.

Filed By: Pamela J. Riley for PacTel Corporation on 12–08–93.

Filed By: Ronald L. Plesser, Counsel for PCS Action, Inc. on 12–08–93.

Filed By: Susan R. Athari, Counsel for Pegasus Communications, Inc. on 12–08–93.

Filed By: E. Ashton Johnston, Attorney for Personal Network Services Corp. on 12–08–93.

Filed By: John W. Hunter, Attorney for PMN, Inc. on 12–08–93.

Filed By: John Hearne, Chairman of Point Communications Company on 12–08–93.

Filed By: John A. Prendergast, Attorney for Radiofone, Inc. on 12–08–93.

Filed By: Linda C. Sadler, Manager-Governmental Affairs for Rockwell International, Inc. on 12–08–93.

Filed By: Caressa D. Bennet, Attorney for Rural Cellular Association on 12–08–93.

Filed By: Paula J. Fulks, Attorney for Southwestern Bell on 12–08–93.

Filed By: Margaret M. Charles, Attorney for Spectralink Corporation on 12–08–93.

Filed By: Jay C. Keithley, Attorney for Sprint Corporation on 12–08–93 (and correction filed on 12–9–93).

Filed By: W. Scott McCollough, Assistant Attorney General for Texas Advisory Commission on Emergency Communications on 12–08–93 (and supplement filed 12–08–93).

Filed By: Eric Schimmel, Vice President for Telecommunications Industry Association (TIA)—Fixed Point-to-Point Communication Section of the Network Equipment Division on 12–08–93.

Filed By: Eric Schimmel, Vice President for Telecommunications Industry Association (TIA)—Mobile and Personal Communications Division on 12–08–93.

Filed By: George Y. Wheeler, Attorney for Telephone and Data Systems, Inc. on 12–08–93.

Filed By: Thomas A. Stroup, Attorney for Telocator on 12–08–93.

Filed By: Richard Rubin, Attorney for Time Warner Telecommunications on 12–08–93.

Filed By: Stephen D. Baruch, Attorney for TRW, Inc. on 12–08–93.

Filed By: Stephen G. Kraskin, Attorney for U.S. Intelco Networks, Inc. on 12–08–93.

Filed By: Jeffrey S. Bork, Attorney for US West on 12–08–93.

Filed By: R. Michael Senkowski, Attorney for UTAM, Inc. on 12–08–93.

Filed By: Jeffrey L. Sheldon, General Counsel for Utilities Telecommunications Council on 12–08–93.

Filed By: R. Michael Senkowski, Attorney for WINforum on 12–08–93.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 93–30710 Filed 12–14–93; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL RESERVE SYSTEM

The Dai-Ichi Kangyo Bank, et al.; Acquisition of Company Engaged in Permissible Nonbanking Activities

The organization listed in this notice has applied under § 225.23(a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23(a)(2) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than January 3, 1994.

A. Federal Reserve Bank of San Francisco (Kenneth R. Binning, Director, Bank Holding Company) 101 Market Street, San Francisco, California 94105:

1. The Dai-Ichi Kangyo Bank, Tokyo, Japan; to acquire Barclays Commercial Corporation, Charlotte, North Carolina, and thereby engage in factoring and asset-based lending by making, acquiring or servicing loans or other extensions of credit, for its account or for the account of others pursuant to § 225.25(b)(1); and operating a collection agency pursuant to § 225.25(b)(23) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, December 9, 1993.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 93-30533 Filed 12-14-93; 8:45 am]

BILLING CODE 6210-01-F

Catherine Finn, et al.; Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than January 3, 1994.

A. Federal Reserve Bank of Dallas (Genie D. Short, Vice President) 2200 North Pearl Street, Dallas, Texas 75201-2272:

1. Catherine Finn, Dallas, Texas, and Shannon Wood, Refugio, Texas; to acquire an additional 32.3 percent of the voting shares of Howland Bancshares, Inc., Robstown, Texas, for a total of 48.4 percent, and thereby indirectly acquire The Bank of Robstown, Robstown, Texas.

Board of Governors of the Federal Reserve System, December 9, 1993.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 93-30532 Filed 12-14-93; 8:45 am]

BILLING CODE 6210-01-F

Hubco, Inc., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than January 7, 1994.

A. Federal Reserve Bank of New York (William L. Rutledge, Vice President) 33 Liberty Street, New York, New York 10045:

1. Hubco, Inc., Union City, New Jersey; to acquire 100 percent of the voting shares of the successor by charter conversion to Statewide Savings Bank, SLA, Jersey City, New Jersey.

B. Federal Reserve Bank of Atlanta (Zane R. Kelley, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. Bradford Bankshares, Inc., Starke, Florida; to merge with CNB, Inc., Lake City, Florida, and thereby indirectly acquire CNB National Bank, Lake City, Florida.

C. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. First Carroll Bankshares, Inc., Berryville, Arkansas; to become a bank holding company by acquiring 100 percent of the voting shares of The First National Bank of Berryville, Berryville, Arkansas.

Board of Governors of the Federal Reserve System, December 9, 1993.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 93-30535 Filed 12-14-93; 8:45 am]

BILLING CODE 6210-01-F

Northwest Equity Corp., et al.; Formations of, Acquisitions by, and Mergers of Bank Holding Companies; and Acquisitions of Nonbanking Companies

The companies listed in this notice have applied under § 225.14 of the Board's Regulation Y (12 CFR 225.14) for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) to become a bank holding company or to acquire voting securities of a bank or bank holding company. The listed companies have also applied under § 225.23(a)(2) of Regulation Y (12 CFR 225.23(a)(2)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies, or to engage in such an activity. Unless otherwise noted, these activities will be conducted throughout the United States.

The applications are available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than January 7, 1994.

A. Federal Reserve Bank of Minneapolis (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. Northwest Equity Corp., Amery, Wisconsin; to become a bank holding company by acquiring 100 percent of the voting shares of Northwest Savings Bank, Amery, Wisconsin.

In connection with this application, Applicant also proposes to engage in making, acquiring, or servicing loans or other extensions of credit for its own account or the account of others pursuant to § 225.25(b)(1) of the Board's Regulation Y.

B. Federal Reserve Bank of Kansas City (John E. Yorke, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. Southeast Bancshares, Inc., Chanute, Kansas; to become a bank holding company by acquiring 100 percent of the voting shares of Chetopa Bancshares. Inc., and thereby indirectly

acquire Chetopa State Bank, Chetopa, Kansas; Thayer Bancshares, Inc., and thereby indirectly acquire First State Bank of Thayer, Kansas; Erie Bankshares, Inc., and thereby indirectly acquire Home State Bank, Erie, Kansas; Stark Bankshares, Inc., and thereby indirectly acquire Stark State Bank, Stark, Kansas; Neosho County Bancshares, Inc., and thereby indirectly acquire Bank of Commerce, Chanute, Kansas; and First Neodesha Bancshares, Inc., and thereby indirectly acquire First Neodesha Bank, Neodesha, Kansas.

In connection with this application, Applicant also proposes to engage in the sale of credit-related life and accident and health insurance pursuant to § 225.25(b)(1) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, December 9, 1993.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 93-30534 Filed 12-14-93; 8:45 am]

BILLING CODE 6210-01-F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 93N-0434]

Lyphomed, Division of Fujisawa USA, Inc.; Withdrawal of Approval of a New Drug Application; Correction

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting a notice that appeared in the Federal Register of November 22, 1993 (58 FR 61713). The document announced the withdrawal of approval of a new drug application held by Lyphomed, Division of Fujisawa USA, Inc., because of questions raised about the reliability of the data and information submitted to FDA in support of the application. The document was published with the incorrect title for the authorized official who signed the document. This document corrects that error.

FOR FURTHER INFORMATION CONTACT: Robin Thomas Johnson, Office of Policy (HF-27), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-2994.

In FR Doc. 93-28555, appearing on page 61713 in the Federal Register of Monday, November 22, 1993, the following correction is made:

On page 61713, in the second column, at the end of the document, the title for Murray M. Lumpkin "Deputy Director for Review Management" is corrected to read: "Acting Director, Center for Drug Evaluation and Research."

Dated: December 8, 1993.

Michael R. Taylor,

Deputy Commissioner for Policy.

[FR Doc. 93-30506 Filed 12-14-93; 8:45 am]

BILLING CODE 4160-01-F

INTERSTATE COMMERCE COMMISSION

[Ex Parte No. 516]

Railroad Cost of Capital—1993

AGENCY: Interstate Commerce Commission.

ACTION: Notice of decision instituting a proceeding to determine the railroads' 1993 cost of capital.

SUMMARY: The Commission is instituting a proceeding to determine the railroad industry's cost of capital rate for 1993. The decision solicits comments on:

(1) The railroads' 1993 cost of debt capital;

(2) The railroads' 1993 current cost of preferred stock equity capital;

(3) The railroads' 1993 cost of common stock equity capital; and

(4) The 1993 capital structure mix of the railroad industry on a market value basis.

DATES: Notices of intent to participate are due December 27, 1993. Statements of railroads are due February 28, 1994. Statements of other interested persons are due March 28, 1994. Rebuttal statements by railroads are due April 11, 1994.

ADDRESSES: Send an original and 15 copies of statements and an original and 1 copy of the notice of intent to participate to: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Leonard J. Blistein (202) 927-6171. [TDD for hearing impaired: (202) 927-5721.]

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To obtain a copy of the full decision, write to, call, or pick up in person from: Office of the Secretary, Interstate Commerce Commission, room 2215, Washington, DC 20423. Telephone: (202) 927-7428. (Assistance for the hearing impaired is available through TDD services (202) 927-5721.)

Environmental and Energy Considerations

We preliminarily conclude that the proposed action will not significantly affect either the quality of the human environment or the conservation of energy resources.

Authority: 49 U.S.C. 10704(a).

Decided: November 24, 1993.

By the Commission, Chairman McDonald, Vice Chairman Simmons, Commissioners Phillips, Philbin, and Walden.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 93-30594 Filed 12-14-93; 8:45 am]

BILLING CODE 7035-01-P

[Finance Docket No. 32314]

Norfolk and Western Railway Company—Operation Exemption—In Halifax County, VA

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: Pursuant to 49 U.S.C. 10505, the Commission exempts from the prior approval requirements of 49 U.S.C. 10901, the reinstitution of operations by Norfolk and Western Railway Company over approximately 14.7 miles of abandoned rail line between milepost F-32.6, at South Boston, and milepost F-47.3, at Clover, VA.

DATES: This exemption will be effective on January 14, 1994. Petitions for stay must be filed by December 27, 1993. Petitions for reconsideration must be filed by January 4, 1994.

ADDRESSES: Send pleadings referring to Finance Docket No. 32314 to: (1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423 and (2) Petitioner's representative: James L. Howe III, Three Commercial Place, Norfolk, VA 23510-2191.

FOR FURTHER INFORMATION CONTACT: Richard B. Felder (202) 927-5610. (TDD for hearing impaired: (202) 927-5721)

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to, call, or pick up in person from: Dynamic Concepts, Inc., room 2229, Interstate Commerce Commission Building, Washington, DC 20423. Telephone: (202) 289-4357/4359. (Assistance for the hearing impaired is available through TDD services (202) 927-5721.)

Decided: December 6, 1993.

By the Commission, Chairman McDonald, Vice Chairman Simmons, Commissioners Phillips, Philbin, and Walden.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 93–30595 Filed 12–14–93; 8:45 am]

BILLING CODE 7035–01–P

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

Senior Executive Service; Membership of Performance Review Board

December 9, 1993.

On or about December 27, 1993, the following persons will become members and alternate members of the Performance Review Board for 1994 and 1995:

Members

Richard McCall, Chairman
Ann Van Dusen, SES Member
James Goven, SES Member
John Wilkinson, SES Member
James Durnil, SFS Member
Lenora Alexander, Public Member

Alternate Members

Scott Smith, SFS Member
Kathryn Cunningham, SES Member
Amy Billingsly, Alternate Public Member

Dated: December 3, 1993.

Shirley D. Renrick,

Executive Secretary, Performance Review Board.

Dated: December 6, 1993.

Robert F. McDonald,

Executive Secretary, Performance Review Board.

[FR Doc. 93–30597 Filed 12–14–93; 8:45 am]

BILLING CODE 6116–01–M

DEPARTMENT OF LABOR

Office of the Secretary

Petition and Data Collection Forms for NAFTA Transitional Adjustment Assistance Program; Correction

AGENCY: Office of the Secretary, Labor.

ACTION: Request for expedited review under the Paperwork Reduction Act; Correction.

SUMMARY: In FR notice document FR Doc. 93–30245 on page 65194 in the issue of Monday, December 13, 1993 (58 FR 65194) make the following correction:

The sections in the second column under the headings "Petition Form (ETA 9042)" and "Confidential Data Forms (ETA 9043)" should be changed to read as follows:

Petition Form (ETA 9042)

1. Petitioner(s)

Average Burden Hours: ¼ hour.
Frequency of Response: As needed.
Number of Respondents: 1,350.
Annual Burden Hours: 337.5 hours.
Annual Responses: One.
Affected Public: Individuals or households; farms.
Respondents Obligation to Reply: Voluntary.

2. State

Average Burden Hours: 1/12 hour.
Frequency of Response: As needed.
Number of Respondents: 1,350.
Annual Burden Hours: 112.5 hours.
Annual Responses: One.
Affected Public: State/local government.
Respondents Obligation to Reply: Mandatory.

Confidential Data Forms (ETA 9043)

1. Petitioner(s)

Average Burden Hours: 3 hours.
Frequency of Response: As needed.
Number of Respondents: 1,350.
Annual Burden Hours: 4,050 hours.
Annual Responses: One.
Affected Public: Businesses or other for-profit; small business or organizations.
Respondents Obligation to Reply: Mandatory.

2. State

Average Burden Hours: 4½ hours.
Frequency of Response: As needed.
Number of Respondents: 1,350.
Annual Burden Hours: 6,075 hours.
Annual Responses: One.
Affected Public: State/local government.
Respondents Obligation to Reply: Mandatory.

Signed at Washington, DC, this 13th day of December 1993.

Kenneth A. Mills,

Departmental Clearance Officer.

[FR Doc. 93–30689 Filed 12–14–93; 8:45 am]

BILLING CODE 4510–30–M

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Records Schedules; Availability and Request for Comments

AGENCY: National Archives and Records Administration, Office of Records Administration.

ACTION: Notice of availability of proposed records schedules; request for comments.

SUMMARY: The National Archives and Records Administration (NARA) publishes notice at least once monthly of certain Federal agency requests for records disposition authority (records schedules). Records schedules identify records of sufficient value to warrant preservation in the National Archives of the United States. Schedules also authorize agencies after a specified period to dispose of records lacking administrative, legal, research, or other value. Notice is published for records schedules that (1) propose the destruction of records not previously authorized for disposal, or (2) reduce the retention period for records already authorized for disposal. NARA invites public comments on such schedules, as required by 44 USC 3303a(a).

DATES: Request for copies must be received in writing on or before January 31, 1994. Once the appraisal of the records is completed, NARA will send a copy of the schedule. The requester will be given 30 days to submit comments.

ADDRESSES: Address requests for single copies of schedules identified in this notice to the Records Appraisal and Disposition Division (NIR), National Archives and Records Administration, Washington, DC 20408. Requesters must cite the control number assigned to each schedule when requesting a copy. The control number appears in the parentheses immediately after the name of the requesting agency.

SUPPLEMENTARY INFORMATION: Each year U.S. Government agencies create billions of records on paper, film, magnetic tape, and other media. In order to control this accumulation, agency records managers prepare records schedules specifying when the agency no longer needs the records and what happens to the records after this period. Some schedules are comprehensive and cover all the records of an agency or one of its major subdivisions. These comprehensive schedules provide for the eventual transfer to the National Archives of historically valuable records and authorize the disposal of all other records. Most schedules, however, cover records of only one office or program or a few series of records, and many are updates of previously approved schedules. Such schedules also may include records that are designated for permanent retention.

Destruction of records requires the approval of the Archivist of the United States. This approval is granted after a

thorough study of the records that takes into account their administrative use by the agency of origin, the rights of the Government and of private persons directly affected by the Government's activities, and historical or other value.

This public notice identifies the Federal agencies and their subdivisions requesting disposition authority, includes the control number assigned to each schedule, and briefly describes the records proposed for disposal. The records schedule contains additional information about the records and their disposition. Further information about the disposition process will be furnished to each requester.

Schedules Pending:

1. Department of Interior, Office of Surface Mining Reclamation and Enforcement (N1–471–93–1). Pittsburgh (PA) Mine Map Repository microfilm and data input records.

2. Department of Interior, Office of Surface Mining Reclamation and Enforcement (N1–471–93–2). Anthracite coal mine maps and engineering drawings, 1865–1963, that have been microfilmed.

3. Department of Justice, Federal Bureau of Investigation (N1–65–93–6). Update to Bureau's comprehensive records schedule, covering case files and automated systems.

4. Department of Justice, Federal Bureau of Investigation (N1–95–93–7). Tracking/tickler forms providing brief summaries of correspondence going to the Director for review.

5. Department of Justice, Immigration and Naturalization Service (N1–85–93–1). Records relating to land border commuter entry.

6. Department of State, Bureau of Administration (N1–59–93–45). General files of the Office of the Procurement Executive.

7. Department of State (N1–59–93–48). Routine reports and other records relating to personnel assignments, the installation of equipment, and similar facilitative matters.

8. Department of State, Bureau of Legislative Affairs (N1–59–94–1). Tracking system used by Office of Legislative Operations.

9. ACTION, Office of Management and Budget (N1–362–94–4). Grant appeal files and program directories.

10. Central Intelligence Agency (N1–263–93–3). Non-CIA information reports maintained by the Central Intelligence Agency Library.

11. Defense Logistics Agency (N1–361–93–7). Base realignment and closure records maintained by non-headquarters activities.

12. Defense Logistics Agency (N1–361–93–8). Situation reports of the Defense Fuels Supply Center.

13. Defense Logistics Agency (N1–361–93–9). Decrease in retention period for records relating to morale, welfare, and recreation.

14. Tennessee Valley Authority, Communications (N1–142–90–21). Media release films and videos determined to lack historical value.

15. Tennessee Valley Authority, Facilities Services (N1–142–93–15). Microfilm copies of the Records and Information Management System.

Dated: December 1, 1993.

Trudy Huskamp Peterson,

Acting Archivist of the United States.

[FR Doc. 93–30538 Filed 12–14–93; 8:45 am]

BILLING CODE 7515–01–M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards, Subcommittee on Planning and Procedures; Meeting

The ACRS Subcommittee on Planning and Procedures will hold a meeting on Wednesday, January 5, 1994, room P–422, 7920 Norfolk Avenue, Bethesda, MD.

The entire meeting will be open to public attendance, with the exception of a portion that may be closed pursuant to 5 U.S.C. 552b(c)(2) and (6) to discuss organizational and personnel matters that relate solely to internal personnel rules and practices of ACRS and matters the release of which would represent a clearly unwarranted invasion of personal privacy.

The agenda for the subject meeting shall be as follows:

Wednesday, January 5, 1994—2 p.m. Until 4:30 p.m.

The Subcommittee will discuss proposed ACRS activities, practices and procedures for conducting the Committee business, and organizational and personnel matters relating to ACRS and its staff. The Committee will discuss also qualifications of candidates nominated for appointment to the ACRS. The purpose of this meeting is to gather information, analyze relevant issues and factors, and to formulate proposed positions and actions, as appropriate, for deliberation by the full Committee.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Electronic recordings will be permitted only during those portions of the meeting that are open to the public, and questions may be asked only by members of the Subcommittee, its consultants, and staff. Persons desiring to make oral statements should notify the ACRS staff member named below as far in advance as is practicable so that appropriate arrangements can be made.

Further information regarding topics to be discussed, the scheduling of sessions open to the public, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements, and the time allotted therefor can be obtained by contacting the cognizant ACRS staff person, Dr. John T. Larkins (telephone (301/492–4516) between 7:30 a.m. and 4:15 p.m. (EST). Persons planning to attend this meeting are urged to contact the above named individual five days before the scheduled meeting to be advised of any changes in schedule, etc., that may have occurred.

Dated: December 6, 1993.

Sam Duraiswamy,

Chief, Nuclear Reactors Branch.

[FR Doc. 93–30554 Filed 12–4–93; 8:45 am]

BILLING CODE 7590–01–M

Advisory Committee on Reactor Safeguards, Subcommittee on Thermal Hydraulic Phenomena; Meeting

The ACRS Subcommittee on Thermal Hydraulic Phenomena will hold a meeting on January 4 and 5, 1994, in room P–110, 7920 Norfolk Avenue, Bethesda, MD.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

Tuesday, January 4, 1994—8:30 a.m. until the conclusion of business

Wednesday, January 5, 1994—8:30 a.m. until the conclusion of business

The Subcommittee will continue its review of the NRC RELAP5/MOD 3 code. The focus of the discussion will be on the use of this code in evaluating the design features of the AP600 passive plant. The purpose of this meeting is to gather information, analyze relevant issues and facts, and to formulate proposed positions and actions, as appropriate, for deliberation by the full Committee.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Electronic recordings will be permitted only during those portions of the meeting that are open to the public, and questions may be asked only by members of the Subcommittee, its consultants, and staff. Persons desiring to make oral statements should notify the ACRS staff member named below as far in advance as is practicable so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC staff, its consultants and other interested persons regarding this review. Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by contacting the cognizant ACRS staff engineer, Mr. Paul A. Boehnert (telephone 301/492–8558) between 7:30 a.m. and 4:15 p.m. (EST). Persons planning to attend this meeting are urged to contact the above named individual five days before the scheduled meeting to be advised of any changes in schedule, etc, that may have occurred.

Dated: December 6, 1993.

Sam Duraiswamy,

Chief, Nuclear Reactors Branch.

[FR Doc. 93–30555 Filed 12–14–93; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 030–28835 License No. 35–23193–01 EA 93–015]

Edwards Pipeline Testing, Inc., Tulsa, OK; Order Imposing Civil Monetary Penalty

I

Edwards Pipeline Testing, Inc. (Licensee or Edwards Pipeline Testing) is the holder of NRC Byproduct Materials License No. 35–23193–01 issued by the Nuclear Regulatory Commission (NRC or Commission). The license authorizes the Licensee to possess and use sealed radioactive sources to perform industrial radiography in accordance with the conditions of the license.

II

An inspection of the Licensee's activities was conducted on August 26, 1992. The results of this inspection and a follow-up investigation conducted by the Office of Investigations (OI) indicated that the Licensee had not conducted its activities in full compliance with NRC requirements. A written Notice of Violation and Proposed Imposition of Civil Penalty (Notice) was served upon the Licensee by letter dated September 1, 1993. The Notice described the nature of the violation, the provision of the NRC's requirements that the Licensee had violated, and the amount of the civil penalty proposed for the violations.

The Licensee responded to the Notice in a Reply and an Answer dated September 28, 1993. In its Reply and Answer, the Licensee admitted the violation which resulted in the proposed civil penalty, but requested mitigation for reasons that are summarized in the Appendix to this Order.

III

After consideration of the Licensee's response and the statements of fact, explanation, and argument for mitigation contained therein, the NRC staff has determined, as set forth in the Appendix to this Order, that the violation occurred as stated and that the penalty proposed for the violation designated in the Notice should be imposed.

IV

In view of the foregoing and pursuant to Section 234 of the Atomic Energy Act of 1954, as amended (Act), 42 U.S.C. 2282, and 10 CFR 2.205, *It Is Hereby Ordered That:* The Licensee pay the civil penalty in the amount of $12,000 within 30 days of the date of this Order, by check, draft, money order, or electronic transfer, payable to the Treasurer of the United States and mailed to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Attn: Document Control Desk, Washington, DC 20555.

V

The Licensee may request a hearing within 30 days of the date of this Order. A request for a hearing should be clearly marked as a "Request for an Enforcement Hearing," and shall be addressed to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Attn: Document Control Desk, Washington, DC 20555. Copies also shall be sent to the Assistant General Counsel for Hearings and Enforcement at the same address and to the Regional Administrator, NRC Region IV, 611 Ryan Plaza Drive, suite 400, Arlington, Texas 76011.

If a hearing is requested, the Commission will issue an Order designating the time and place of the hearing. If the Licensee fails to request a hearing within 30 days of the date of this Order, the provisions of this Order shall be effective without further proceedings. If payment has not been made by that time, the matter may be referred to the Attorney General for collection.

In the event the Licensee requests a hearing as provided above, the issue to be considered at such hearing shall be: Whether, on the basis of the violation admitted by the Licensee, this Order should be sustained.

Dated at Rockville, Maryland this 6th day of December 1993.

For The Nuclear Regulatory Commission.

Hugh L. Thompson, Jr.,

Deputy Executive Director for Nuclear Materials Safety, Safeguards and Operations Support.

Appendix

Evaluation and Conclusions

On September 1, 1993, a Notice of Violation and Proposed Imposition of Civil Penalty (Notice) was issued for a violation identified during an NRC inspection and a follow-up investigation conducted by the Office of Investigations. Edwards Pipeline Testing, Inc. responded to the Notice on September 28, 1993. The Licensee admitted the violation that resulted in the proposed civil penalty, but requested mitigation. A restatement of the violation, and the NRC's evaluation and conclusions regarding the Licensee's request follow:

Restatement of Violation Assessed a Civil Penalty

10 CFR 34.11(d)(1) requires, in part, that an applicant have an inspection program that requires the observation of the performance of each radiographer and radiographer's assistant during an actual radiographic operation at intervals not to exceed three months.

License Condition 19 (as it existed at the time of the violation) incorporated the inspection program containing the requirements stated in 10 CFR 34.11(d)(1), as submitted in the licensee's application dated August 5, 1985, and subsequent letter and enclosure received September 30, 1985, into License No. 35–23193–01.

Item 4 of the September 30, 1985, letter references internal inspection procedures contained in Section III, Item 14, of the licensee's operating procedures manual ("manual") enclosed with that letter.

Item 14.3 of the manual states that field inspections shall be performed on each radiographer and radiographer's assistant at least once each quarter. Item 14.4 further states that any radiographer or radiographer's assistant who has not worked for at least 3 months shall be subject to a field inspection performed during the first job (radiography) which they perform.

Contrary to the above, between August 30, 1990, and August 26, 1992, the licensee had not observed each radiographer and radiographer's assistant during actual radiographic operations, at least once each quarter. Specifically, based on information provided by the licensee during the inspection and at the enforcement conference, a substantial number of radiographers and radiographer's assistants were engaged in radiographic operations but were not audited through a field inspection during actual radiographic operations at the required frequency.

This is a Severity Level II violation (Supplement VI). Civil Penalty—$12,000.

Summary of Licensee's Request for Mitigation

In its September 28, 1993, replies, which included a Reply to a Notice of Violation (Reply) and an Answer to a Notice of Violation (Answer), the Licensee admitted

the violation but requested that the penalty be reduced to $8,000, citing several reasons. The reasons, which have been drawn from both the Reply and the Answer, are summarized below:

1. The Licensee bases its request to reduce the civil penalty on extenuating circumstances assertedly associated with this violation, including:

a. Edwards Pipeline Testing's license consultant failed to consider the complexity of one individual performing audits simultaneously at numerous temporary field locations throughout the United States, resulting in the license containing conditions that were logistically impossible to comply with as the size of the company increased;

b. The company experienced rapid growth which resulted in a larger number of radiography personnel and a greater turnover in personnel, both of which compounded the problem;

c. Some employees failed to complete assigned duties related to the company's radiation safety program, such as the proper recording and filing of records related to periodic field inspections;

d. Proposed revisions to license conditions were included in a September 30, 1990, application for license renewal, which Mr. Edwards, the Licensee's President, fully expected to be able to implement within 30–60 days; and

e. The NRC performed an inspection on December 3, 1991, the results of which led company management to believe that corrective actions as of that date were appropriate.

2. The Licensee contends that the NRC has mistaken Mr. Edwards' knowledge of the fact that a violation was occurring to mean that he willfully decided to operate in noncompliance. The Licensee asserts that Mr. Edwards has made continuous efforts to assure full compliance, including assertions that:

a. Mr. Edwards took immediate action following an August 1989 inspection to instruct the company's RSO to take all required steps to remedy the noncompliance;

b. In 1990, Mr. Edwards ordered an in-depth evaluation of the company's license conditions, which resulted in proposed revisions that were included in a September 30, 1990 license renewal application;

c. In July 1991, Mr. Edwards hired another employee with extensive experience to add support to the radiation safety program; and

d. In August 1992, another individual was assigned the duties of Radiation Safety Director, with responsibility for evaluating and submitting amendments to the license, and additional clerical support for the radiation safety program was obtained.

3. The Licensee argues that the NRC cited the company's otherwise impressive record and indicated that it would have mitigated the $8,000 (base) penalty except for the fact that the president of the company willfully decided to operate in noncompliance. The Licensee believes that the facts indicate that Mr. Edwards continually attempted to achieve compliance and was merely being responsive to the investigators when he stated that he thought that full compliance would not be successfully achieved until the revisions to the license were approved. The Licensee concludes that its audit history does not indicate a cavalier attitude toward safety and respectfully requests a hearing or further appropriate appeal opportunity.

NRC Evaluation of Licensee's Request for Mitigation

The NRC's evaluation of the Licensee's arguments follows:

1. The NRC was aware of all of the circumstances surrounding this violation when it proposed the penalty, including that the Licensee had come into compliance early in 1993. Had those circumstances not existed, the NRC probably would have taken a different enforcement action. In the absence of the company president's attempts to achieve compliance, the NRC almost certainly would have issued an order that would have prohibited his involvement in licensed activities.

The Licensee was aware of the need to have its license amended. At the enforcement conference, Mr. Edwards stated that he had given instructions to Licensee employees to obtain an amendment. The Licensee notes that proposed revisions to license conditions were included with the September 30, 1990, application for license renewal, which the Licensee believed it would be able to implement within 30–60 days. However, growth of the Licensee's organization does not justify departure from the existing license conditions. Furthermore, the NRC sent a letter to the Licensee on December 17, 1990, reminding the Licensee that ". . . the procedures presently identified in the license must be observed until the license renewal application has been reviewed and approved by NRC."

With regard to the NRC's September 1991 inspection,[1] the NRC acknowledges that its failure to take enforcement action following this inspection may have contributed to the Licensee's perception that the NRC was satisfied with its corrective actions at that time. However, while the NRC then recognized that the Licensee was moving into compliance this does not mean that there was no violation, nor does it excuse the violation. Moreover, the violation cited in this NOV existed for over a year prior to the September 1991 inspection as well as during the subsequent year. Furthermore, Mr. Edwards acknowledged in response to questioning at the enforcement conference that at no time did he believe compliance was not required.

2. The facts, which are supported by Mr. Edwards' statements at the enforcement conference, are that full compliance was not achieved and that Mr. Edwards was aware that full compliance had not been achieved. This is a willful violation because Mr. Edwards knew he was not in compliance and failed to take prompt and effective steps to achieve full compliance with the requirement. The Licensee's president made decisions that lead to the violation for business reasons, including the cost of compliance and the amount of the Licensee's employees' time needed to comply. Moreover, the Licensee was not even in compliance with its proposed audit requirement during the two-year period cited in this violation. The NRC cannot allow its licensees to make business decisions, e.g., based on cost, to override the Commission's regulatory requirements in its regulations, licenses, and orders. The long term knowledge of the existence of this violation coupled with the failure to take effective corrective action over the same long period demonstrate the significance of the violation and the need for an appropriate sanction.

3. While we agree that Edwards' inspection history does not indicate a generally cavalier attitude toward safety, as discussed above, this was a willful violation. Based on the Licensee's prior performance in the specific area of field audits, i.e., considering that this violation continued over an extended period of time with the knowledge of the Licensee's President, as a result of the President's decision regarding the time, effort, and cost of compliance, it is not appropriate to mitigate the base penalty for the Licensee's otherwise good regulatory performance. Of significant weight in this decision is that the Licensee did not implement the new audit process that it had proposed and was eventually adopted. The Licensee's request for a hearing or appropriate appeal opportunity is premature, but can be made in response to an order imposing a civil monetary penalty.

NRC Conclusion

The Licensee has not provided any new information that the NRC was not aware of when it proposed the civil penalty. Therefore, we conclude that the Licensee has not provided an adequate basis for a reduction in the size of the proposed civil penalty. Consequently, the proposed civil penalty in the amount of $12,000 should be imposed.

[FR Doc. 93–30556 Filed 12–14–93; 8:45 am]

BILLING CODE 7590–01–M

[1] The inspection was performed on September 20, 1991 and the Inspection Report was issued on December 3, 1991, the date referred to in the Licensee's Reply.

OFFICE OF PERSONNEL MANAGEMENT

Request Submitted to OMB for Clearance

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1980 (title 44, U.S. Code, chapter 35), this notice announces the request for clearance of an information collection, Application for Solicitation Privileges in the Combined Federal Campaign, which has been submitted to the Office of Management and Budget for review. The application is completed by charitable, non-profit, tax-exempt organizations and assistance programs.

Approximately 800 forms are completed annually, each requiring an

estimated 10 hours to complete, for a total public burden of 8,000 hours. For copies of this proposal call Ron Trueworthy on (703) 908–8550.

DATES: Comments on this proposal should be received by January 14, 1994.

ADDRESS: Send or deliver comments to—Joseph Lackey, OPM Desk Officer, OIRA, Office of Management and Budget, New Executive Office Building, NW, room 3002, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Jeffrey C. Lee, (202) 606–2564, U.S. Office of Personnel Management.

James B. King,

Director.

[FR Doc. 93–30437 Filed 12–14–93; 8:45 am]

BILLING CODE 6325–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–33306; File No. SR–Amex–93–01]

Self-Regulatory Organizations; American Stock Exchange, Inc.; Order Approving Proposed Rule Change To Adopt Rule 208, Rescind Rules 365 and 417, and Revise Rules 415 and 416

December 9, 1993.

I. Introduction

On January 7, 1993, the American Stock Exchange, Inc. ("Amex" or "Exchange") submitted to the Securities and Exchange Commission ("Commission"), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] a proposed rule change to adopt new Rule 208 concerning the bunching of odd-lot orders, rescind Rule 365 relating to the participation of clearing members in the profits and losses of specialists for whom they clear, rescind Rule 417, and revise Rules 415 and 416 relating to the handling of accounts by members and member organizations. On June 25, 1993, the Amex submitted to the Commission Amendment No. 1 to the proposed rule change.[3]

The proposed rule change, together with Amendment No. 1, was noticed for comment in Securities Exchange Act Release No. 32762 (August 17, 1993), 58 FR 44705 (August 24, 1993). No comments were received on the proposal.

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] 17 CFR 240.19b–4 (1991).

[3] See letter from Linda Tarr, Special Counsel, Legal and Regulatory Policy Division, Amex, to Louis A. Randazzo, Attorney, Commission, dated June 22, 1993. Amendment No. 1 makes Commentary .01 to Amex Rule 415 applicable to both paragraphs (a) and (b) of Rule 415.

II. Description of the Proposal

In connection with a review of its rules, the Amex determined to update them and in some cases to make them consistent with amended rules of the New York Stock Exchange ("NYSE"). The following changes are being adopted. The Amex is adopting new Rule 208 ("Bunching of Odd-Lot Orders"), rescinding Rules 365 ("Participation in Specialist Joint-Account Profits or Losses") and 417 ("Margin Accounts of Employees of Financial Concerns"), and amending Rules 415 ("Member's Transactions with Another Member Organization") and 416 ("Accounts of Employees of Exchange and Members").

New Rule 208 articulates current Exchange policy relating to the combining of odd-lot orders. According to the Exchange, current Amex policy prohibits the combining of odd-lot orders given by several customers into round-lots without the prior approval of the customers. Current Exchange policy also requires, under certain circumstances, that separate odd-lot orders that aggregate one or more round lots and which are entered for the same account, be consolidated into round lots to the greatest extent possible. Proposed Rule 208 reflects current Exchange policy by providing that a member or member organization may not combine the orders given by several customers to buy or sell odd-lots of the same stock into a round lot order without the prior approval of all of the interested customers. In addition, Rule 208 provides that when a person gives, either for his own account, for various accounts in which he has an actual monetary interest, or for accounts over which such person is exercising investment discretion, buy or sell odd-lot orders which aggregate one or more round lots, a member or member organization shall not accept such orders for execution unless they are, as far as possible, consolidated into round lots, except that selling orders marked "long" need not be so consolidated with selling orders marked "short."

The Amex is rescinding Rule 365 relating to participation in specialist joint account profits or losses. Amex Rule 365 currently prohibits a clearing firm from participating in the profits or losses of a specialist joint account for which it clears, unless that clearing firm has a general partner or voting stockholder registered and active as a specialist in the joint account.[4]

[4] Amex Rule 365 states that no member or member organization may participate in the profits or losses of a specialist joint account, the transactions of which the organization clears, unless a general partner of the firm or a voting stockholder of the corporation is registered and active at the post as a specialist in such joint account.

According to the Exchange, Rule 365 was adopted in 1962, as a method of dealing with specialist concentration issues, by in effect limiting the number of specialist units with which the clearing firm could be involved. The Exchange argues that subsequently, it has established more direct and sophisticated procedures for dealing with specialist concentration issues. For example, the Exchange stated that any proposed change in specialist unit structure is now reviewed by the Committee on Floor Member Performance and/or the Equities Allocation Committee, and where such changes raise issues of concentration, they are analyzed by the staff and reviewed by the Committee on Specialist Unit Structure and by the Board of Governors of the Exchange. The Exchange believes that Rule 365 unnecessarily restricts joint account arrangements involving clearing firms.

The Amex also is deleting Rule 417, which prohibits a member or member organization from opening a margin account or effecting a margin transaction for the account of an employee of a bank, trust company or similar financial organization unless the written consent of the employer has first been obtained.[5] The Amex argues that Rule 417 is now considered beyond the scope of appropriate Exchange regulation.

The Amex is revising Rules 415 and 416, which, among other things, currently restrict member organizations in the opening and handling of accounts of members and employees of other organizations and employees of the Exchange. The Amex is amending Rule 415 as follows. Paragraph (a) provides that no member organization shall open an account or execute any transaction for a member or allied member of another member organization without the prior written consent of another person designated by the member or member organization under Rule 320(c)(1)[6] to sign such consents and

[5] Amex Rule 417 currently provides that no member, member firm or member corporation shall take or carry a margin account or make a margin transaction in which an employee of a bank, trust company, insurance company, or an employee of any corporation, association, firm or individual engaged in the business of dealing, either as broker or as principal, in stocks, bonds or other securities in any form or in bills of exchange, acceptances or other forms of commercial paper, is directly or indirectly interested, unless the written consent of the employer has first been obtained.

[6] Amex Rule 320(c)(1) provides that general partners or directors of each member organization

Continued

review such accounts. In addition, duplicate confirmations and account statements shall be sent to the person designated to sign such consent. Paragraph (b) provides that no member, allied member or employee associated with a member or member organization shall have a securities or commodities account with respect to which such person has a financial interest or the power, directly or indirectly, to make investment decisions, at another member or member organization, or a domestic or foreign non-member broker-dealer, investment adviser, bank or other financial institution without the prior written consent of another person designated under Rule 320(c)(1) to sign such consents and review such accounts. The Amex also is adopting Commentaries .01 and .02 to Rule 415, which define "accounts" for purposes of the Rule and clarify the requirement to send duplicate confirmations and statements to the person designated in the Rule.[7]

The Exchange is amending Rule 416 relating to the accounts of employees of the Exchange and members or member organizations.[8] The amendments adopt Commentaries .01 and .02 to Rule 416. Commentary .01 clarifies that an employee of the Exchange, who wishes to open a securities or commodities account should apply for permission from the Human Resources Department of the Exchange. Commentary .02 provides that the requirement in Rule 416 to send duplicate confirmations and statements to the employer is stated in Commentary .02 to Rule 415.

The Amex believes that the proposed rule change is consistent with section 6(b)(5) of the Act, which provides, in pertinent part, that the rules of an exchange be designed to promote just and equitable principles of trade, prevent fraudulent and manipulative acts and practices, and, in general, protect investors and the public interest.

III. Discussion

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, with the requirements of section 6(b)(5) of the Act.[9] Section 6(b)(5) requires that the rules of an exchange be designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts and practices, to remove impediments to and perfect the mechanism of a free and open market, and, in general, to protect investors and the public interest.

The Commission believes that the proposal is consistent with the requirements of section 6(b)(5) in that it clarifies the restrictions contained in Amex Rules 415 and 416. Specifically, the Commission believes that requiring prior written consent before a member, allied member or employee associated with a member or member organization can have certain securities or commodities accounts, or before a member or member organization can open a cash or margin account or execute a transaction in securities or commodities in which an employee of the Exchange or any corporate subsidiary of the Exchange or any member or member organization is directly or indirectly interested, should reveal existing and potential conflicts of interest, as well as alert member organizations that additional surveillance could be appropriate. Additionally, the amendments to Rules 415 and 416 should facilitate a member's or member organization's supervision of its employees by providing the employer with information regarding employees' private securities transactions. The requirement that duplicate confirmations and account statements be sent to appropriate persons should help members and member organizations in their efforts to monitor certain accounts that could pose problems for employers if not carefully supervised. For these reasons, the Commission believes that these amendments to Rules 415 and 416 should prevent fraudulent and manipulative acts and practices consistent with section 6(b)(5) of the Act.

The Commission also believes that it is appropriate to delete the restrictions in Rule 417 on employees of financial institutions over which the Exchange does not retain regulatory jurisdiction. This should clarify and streamline the restrictions applicable to certain accounts opened by Exchange members by removing outdated and unnecessary restrictions. This is consistent with section 6(b)(5) in that it removes impediments to a free and open market.

In addition, the Commission believes that it is appropriate to adopt Rule 208. New Rule 208 codifies current Exchange policy relative to the combining of odd-lots. This is consistent with section 6(b)(5) in that it should protect investors and promote just and equitable principles of trade by insuring that all parties who utilize the facilities of the Exchange are familiar with, and have access to, the rules of the Exchange relating to the combining of odd-lots.

The Commission also believes that the proposed deletion of Amex Rule 365, concerning prohibitions on a clearing firm's participation in the profits or losses of a specialist joint account for which it clears, is appropriate in view of the Exchange's current procedures for dealing with specialist concentration issues.[10] For example, the Exchange stated that it has established more direct and sophisticated procedures for dealing with specialist concentration issues. Specifically, any proposed change in specialist unit structure is now reviewed by the Committee on Floor Member Performance and/or the Equities Allocations Committee, and where such changes raise issues of concentration, they are analyzed by the staff and reviewed by the Committee on Specialist Unit Structure and by the Board of Governors of the Exchange. The Commission believes that deleting Rule 365 is consistent with section 6(b)(5) in that it removes impediments to a free and open market by removing

shall provide for appropriate supervisory control and shall designate a general partner or principal executive officer to assume overall authority and responsibility for internal supervision and control of the organization and compliance with securities laws and regulations. This person shall delegate to qualified principals or employees responsibility and authority for supervision and control of each office, department of business activity, and provide for appropriate procedures of supervision and control.

[7] Commentary .01 to Rule 415 states that accounts referred to in paragraph (a) and (b) of Rule 415 include, but are not limited to the following: (a) Securities and commodities accounts; (b) limited or general partnership interest in investment partnerships; (c) direct and indirect participation in joint accounts; and (d) legal interests in trust accounts, provided that with respect to trust accounts, the member or member organization required to approve the account may waive the requirement to send duplicate confirmations and monthly statements for such accounts. See Amendment No. 1, *supra* note 3. Commentary .02 to Rule 415 clarifies that the requirement to send duplicate confirmations and statements shall not be applicable to transactions in unit investment trusts and variable contracts or redeemable securities of companies registered under the Investment Company Act of 1940, as amended, or to accounts which are limited to transactions in such securities, or to Monthly Investment Plan type accounts, unless the member or member organization employer requests receipt of duplicate confirmations and statements of such accounts.

[8] The Exchange proposes to amend Amex Rule 416 to state that no member or member organization shall open a cash or margin account or execute any transaction in securities or commodities in which an employee of the Exchange or any corporate subsidiary of the Exchange or any member or member organizations is directly or indirectly interested without the prior written consent of the employer. Where such prior consent has been obtained, duplicate confirmations and account statements shall be sent to the employer.

[9] 15 U.S.C. 78f(b) (1988).

[10] The Exchange stated that rule 365 was intended as a crude method of dealing with specialist concentration issues, by in effect limiting the number of specialist units with which the clearing firm could be involved.

outdated restrictions on specialist joint accounts.

It Is Therefore Ordered, pursuant to section 19(b)(2) of the Act,[11] that the proposed rule change (SR-Amex-93-1) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[12]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93-30562 Filed 12-14-93; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-33305; File No. SR-Amex-93-37)

Self-Regulatory Organizations; Filing of Proposed Rule Change by the American Stock Exchange, Inc. Relating To Options on the Securities Broker/Dealer Index

December 9, 1993.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on November 12, 1993, the American Stock Exchange, Inc. ("Amex" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Amex. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to trade options on the Securities Broker/Dealer Index ("Index"), a new stock index developed by the Amex based on stocks of securities broker/dealer organizations which are traded on the Amex, the New York Stock Exchange, Inc. ("NYSE"), or other U.S. securities exchanges, or through the facilities of the National Association of Securities Dealers Automated Quotation System and are reported national market system securities ("NASDAQ/NMS"). In addition, the Amex proposes to amend Rule 901C, Commentary .01 to reflect that 90% of the Index's numerical index value will be accounted for by stocks that meet the current criteria and guidelines set forth in Rule 915. The text of the proposed rule change is available at the Office of the Secretary, the Amex, and at the Commission.

[11] 15 U.S.C. 78s(b)(2) (1988).

[12] 17 CFR 200.30-3(a)(12) (1991).

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Amex included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Amex has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis For, the Proposed Rule Change

The Amex has developed a new industry-specific index called the Securities Broker/Dealer Index, based entirely on shares of widely-held securities broker/dealer industry stock which are exchange or NASDAQ/NMS listed.[1] It is intended that the Amex trade option contracts on the newly developed Index.

The Index contains securities of companies in the U.S. securities broker/dealer industry. Included in this group are companies in the U.S. which provide securities brokerage services, market-making services, U.S. Treasury primary dealer functions, and other functions dealing with U.S. and international securities of all types.

Index Calculation

The Index is calculated using an "equal-dollar weighting" methodology designed to ensure that each of the component securities is represented in an approximately "equal" dollar amount in the Index. The Exchange believes that this method of calculation is important since even among the largest companies in the securities broker/dealer industry there is great disparity in market value. For example, although the stocks included in the Index represent many of the most highly capitalized companies in the securities broker/dealer industry, Primerica Corp. currently represents over 22% of the aggregate market value of the Index and Merrill Lynch over 21%. It has been the Exchange's experience that options on market value weighted indexes dominated by one or two component stocks are less useful to investors, since the index will tend to represent those one or two components and not the broader target sector that the index is designed to represent.

The following is a description of how the equal-dollar weighting calculation method works. As of the market close on October 15, 1993, a portfolio of broker/dealer stocks was established representing an investment of $10,000 in the stock (rounded to the nearest whole share) of each of the companies in the Index. The value of the Index equals the current market value (*i.e.*, based on U.S. primary market prices) of the sum of the assigned number of shares of each of the stocks in the Index portfolio divided by the Index divisor. The Index divisor was initially determined to yield the benchmark value of 300.00 at the close of trading on October 15, 1993. Each quarter thereafter following the close of trading on the third Friday of January, April, July, and October, the Index portfolio will be adjusted by changing the number of whole shares of each component stock so that each company is again represented in "equal" dollar amounts. The Exchange has chosen to rebalance following the close of trading on the quarterly expiration cycle because it allows an option contract to be held for up to three months without a change in the Index portfolio while at the same time, maintaining the equal dollar weighting feature of the Index. If necessary, a divisor adjustment is made at the rebalancing to ensure continuity of the Index's value. The newly adjusted portfolio becomes the basis for the Index's value on the first trading day following the quarterly adjustment.

The Exchange represents that it has had experience making regular quarterly adjustments to certain of its indexes (*e.g.*, the Amex Institutional Index) and has not encountered investor confusion regarding the adjustments, since they are done on a regular basis and timely, proper, and adequate notice is given in the form of an information circular distributed to all Exchange members notifying them of the quarterly changes. This circular is also sent to the Exchange's contacts at the major options firms, mailed to recipients of the Exchange's options related information circulars, and made available to subscribers of the Options News Network. In addition, the Exchange will include in its promotional and marketing materials for the Index a description of the equal-dollar weighting methodology. The Exchange states that this procedure has been used for the Exchange's Biotechnology Index, another equal-dollar weighted index.

[1] The component securities of the Index are Alex Brown, Inc.; A.G. Edwards Inc.; Quick and Reilly Group, Inc.; Bear Stearns Companies, Inc.; Merrill Lynch and Co.; Morgan Stanley Group Inc.; Primerica Corp.; Paine Webber Group Inc.; Salomon Inc.; and Charles Schwab Corp.

As noted above, the number of shares of each component stock in the Index portfolio remains fixed between quarterly reviews except in the event of certain types of corporate actions such as the payment of a dividend other than an ordinary cash dividend, a stock distribution, stock split, reverse stock split, rights offering, distribution, reorganization, recapitalization, or similar event with respect to the component stocks. In a merger or consolidation of an issuer of a component stock, if the stock remains in the Index, the number of shares of that security in the portfolio may be adjusted, to the nearest whole share, to maintain the component's relative weight in the Index at the level immediately prior to the corporate action. In the event of a stock replacement, the average dollar value of the remaining portfolio components will be calculated and that amount invested in the stock of the new component, to the nearest whole share. In all cases, the divisor will be adjusted, if necessary, to ensure Index continuity.

The Amex will calculate and maintain the Index, and pursuant to Exchange Rule 901C(b) may at any time or from time to time substitute stocks, or adjust the number of stocks included in the Index based on changing conditions in the securities broker/dealer industry. However, in the event the Exchange determines to increase the number of Index component stocks to greater than fifteen or to reduce the number of component stocks to fewer than ten, the Exchange will give prior written notice to the Commission.[2] In selecting securities to be included in the Index, the Exchange will be guided by a number of factors including market value of outstanding shares and trading activity. The eligibility standards for Index components are described below.

Similar to other stock index values published by the Exchange, the value of the Index will be calculated continuously and disseminated every 15 seconds over the Consolidated Tape Association's Network B.

Expiration and Settlement

The proposed options on the Index are European-style[3] and cash-settled. The Exchange's standard option trading hours (9:30 a.m. to 4:10 p.m. Eastern Standard Time) will apply to Index options. The options on the Index will expire on the Saturday following the third Friday of the expiration month ("Expiration Friday"). The last trading day in an Index option series will normally be the second to last business day preceding the Saturday following Expiration Friday (normally a Thursday). Trading in expiring Index options will cease at the close of trading on the last trading day.

The Exchange plans to list Index options series with expirations in the three near-term calendar months and in the two additional calendar months in the January cycle. In addition, longer term option series having up to thirty-six months to expiration may be traded. In lieu of such long-term options based on the full-value of the Index, the Exchange may instead list long-term, reduced-value put and call options based on one-tenth (1/10th) of the Index's full value. In either event, the interval between expiration months for either a full-value or reduced-value long-term Index option will not be less than six months. The trading of any long-term Index options would be subject to the same rules which govern the trading of all the Exchange's index options, including sales practice rules, margin requirements, and floor trading procedures. Position limits on reduced-value long-term Index options will be equivalent to the position limits for regular (full-value) Index options and would be aggregated with such options. For example, if the position limit for the full-value options on the Index is 10,500 contracts on the same side of the market, then the position limit for the reduced-value options will be 105,000 contracts on the same side of the market.

The exercise settlement value for all of the expiring Index options will be calculated based upon the primary exchange regular way opening sale prices for the component stocks. In the case of securities traded through the NASDAQ system, the first reported sale price will be used. If any component stock does not open for trading on its primary market on the last day before expiration, then the prior day's last sale price will be used in the exercise settlement value calculation.

Eligibility Standards for Index Components

Exchange Rule 901C specifies criteria for inclusion of stocks in an index on which options will be traded on the Exchange. In choosing among securities broker/dealer industry stocks that meet the minimum criteria set forth in Rule 901C, the Exchange will focus only on stocks that are traded on the NYSE, Amex (subject to the limitations of Rule 901C), other U.S. securities exchanges, or NASDAQ/NMS. In addition, the Exchange intends to select stocks that: (1) Have a minimum market value (in U.S. dollars) of a least $75 million, and (2) have an average monthly trading volume in the U.S. markets over the previous six month period of not less than one million shares except that two of the stocks may have minimum monthly trading volumes of at least 450,000 shares.

The Index currently has eleven component stocks, ten of which are eligible for standardized option trading and are currently the subject of standardized option trading. However, to address concerns about the possibility of manipulation of an index containing a large percentage of stocks that do not meet the eligibility standards applicable to stocks eligible for standardized option trading, at each quarterly rebalancing, stocks that meet the then current criteria for standardized option trading set forth in Exchange Rule 915 will be required to account for a least 90% of the Index's numerical value, and this requirement will be reflected in commentary to Exchange Rule 901C.

Exchange Rules Applicable to Stock Index Options

Amex Rules 900C through 980C will apply to the trading of option contracts based on the Index. These Rules cover issues such as surveillance, exercise prices, and position limits. Surveillance procedures currently used to monitor trading in each of the Exchange's other index options will also be used to monitor trading in options on the Index. The Index is deemed to be a Stock Index Option under Rule 901C(a) and a Stock Index Industry Group under Rule 900C(b)(1). With respect to Rule 903C(b), the Exchange proposes to list near-the-money (*i.e.*, strike prices within ten points above or below the current index value) option series on the Index at 2½ intervals only when the value of the Index is below 200 points.

The Exchange believes that the proposed rule change is consistent with section 6(b) of the Act, in general, and furthers the objectives of section 6(b)(5) in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and to remove impediments to and perfect the mechanism of a free and open market and a national market system.

[2] Such a change in the number of components in the Index may warrant the submission of a rule filing pursuant to Section 19 of the Act and Rule 19b–4 thereunder.

[3] European-style options may only be exercised during a specified time period immediately prior to expiration.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Amex does not believe that the proposed rule change will impose any inappropriate burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the Amex. All submissions should refer to File No. SR–Amex–93–37 and should be submitted by January 7, 1994.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[4]

[4] 17 CFR 200.30–3(a)(12) (1992).

Margaret H. McFarland,
Deputy Secretary.

[FR Doc. 93–30563 Filed 12–14–93; 8:45 am]
BILLING CODE 8010–01–M

[Release No. 34–33308; International Series Release No. 621; File No. SR–AMEX–93–32]

Self-Regulatory Organizations; Filing of Proposed Rule Change by the American Stock Exchange, Inc. Relating to a Proposal To List for Trading Options on the Amex Hong Kong 30 Index

December 9, 1993.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on October 27, 1993, the American Stock Exchange, Inc. ("Amex" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Amex. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Amex proposes to trade options on the Amex Hong Kong 30 Index ("Index"), a new stock index recently developed by the Amex and currently comprised of thirty common stocks which are traded on the Stock Exchange of Hong Kong ("HKSE"). In addition, the Amex proposes to amend Rule 904C(b) to provide for a position limit of 25,000 contracts on the same side of the market, provided no more than 15,000 of such contracts are in series in the nearest expiration month. The text of the proposed rule change is available at the Office of the Secretary, the Amex, and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Amex included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Amex has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

(1) Purpose

The Exchange has developed the Index, which is based entirely on the shares of thirty companies traded on the HKSE. The Exchange intends to trade standardized index option contracts based on the Index. The Exchange recently received Commission approval to list and trade warrants based on the Index.[1] The Index is currently being calculated and disseminated by the Exchange.

Eligibility Standards for Index Components

The Index's component securities have been selected on the basis of their market weight, trading liquidity, and representation of the wide variety of business industries listed on the HKSE. The index component securities must meet certain requirements and criteria. First, the issuer of each Index component security must be an entity with major business interests in Hong Kong. Second, each Index component security must be listed for trading on the HKSE. Third, if any Index component security has a majority of its trading volume occurring on an exchange other than the HKSE, the Amex must have an effective market information sharing agreement with such exchange. The Amex will remove any Index component security that fails any of the above criteria within 30 days after such failure occurs.

In addition, the Exchange has selected only those HKSE Index component securities that meet the following additional listing and maintenance criteria:

(1) The average daily market capitalization for each Index component security during the six months prior to inclusion in the Index must be at least HK$3 billion (approximately US$380 million);

(2) The average U.S. dollar value of the "free float" (*i.e.*, total freely tradeable outstanding shares less insider holdings) for each Index component security during the three months prior to inclusion in the Index, shall not be less than US$238 million, except that, up to three Index component securities may be retained in the Index that do not meet this criterion provided that the average U.S. dollar value of the "free float" for each of the excepted securities is not less than US$150 million;

[1] Securities Exchange Act Release No. 33036 (October 8, 1993), 58 FR 53588.

(3) The average daily closing price of each Index component security during the six months prior to inclusion in the Index may not be lower than HK$2.50 (approximately US$0.32); and

(4) All securities selected for inclusion in the Index must have traded an average of one million shares per day during the preceding six months, except that, up to three Index component securities may be included in the Index that do not meet this criterion provided that each such excepted security has an average daily trading volume of not less than 500,000 shares per day during the preceding six months.

Beginning in 1994, the Exchange will review the Index's component securities on the last business day in January, April, July, and October. Any component security failing to meet the above listing and maintenance criteria may be replaced in the Index in accordance with the schedule set forth in the Commission approval order for the trading of warrants on the Index.[2] The Exchange will maintain the Index and, pursuant to Exchange Rule 901C(b), may at any time or from time to time substitute stocks, or adjust the number of stocks included in the Index, based on changing conditions in the Hong Kong stock market. Any replacement security must meet the eligibility standards discussed above. However, if the number of Index component securities in the Index falls below thirty, no new option series will be listed for trading unless and until the Commission approves a rule filing pursuant to section 19(b) of the Act reflecting the change in the number of components in the Index.

At the close of the market on Friday, October 15, 1993, the average closing price of the component stocks of the Index was HK$26.09 (US$3.38), with the highest priced stock closing at HK$87.50 (US$11.33) and the lowest priced stock closing at HK$4.10 (US$0.53). Of the thirty included in the Index, four closed at prices lower than HK$7.50, or approximately US$1.00. As of October 15, 1993, the total market capitalization of the Index component stocks was US$186.8 billion.[3]

Index Calculations

The Index is a capitalization-weighted index where the Index value is calculated by multiplying the price of each component security (in Hong Kong dollars) by its number of shares outstanding, adding the sums and dividing by the current Index divisor. The Index level was set at a value of 350 at the close of the market on June 25, 1993. The market value of the component stocks on that date was HK$1,152,829,149,500 (equivalent to approximately US$148,656,241,000) and the divisor used to calculate the Index was 3,293,797,570. For valuation purposes, one Hong Kong Index unit (1.0) is assigned a fixed value of one U.S. dollar.

Since the HKSE does not operate during the Amex's trading hours, the Amex is calculating the Index once each day based on the most recent official closing prices of each of the Index component securities as reported by the HKSE. The Amex will administer the Index, making such adjustments to the divisor as may be necessary in light of stock splits, stock replacements, or other corporate actions which would otherwise cause a discontinuity in the Index value. The Index value is being published through the Exchange's market data system and made available to vendors.

Expiration and Settlement

The proposed options on the Index are to be European-style (*i.e.*, exercises are permitted at expiration only) and cash-settled. Standard option trading hours for broad-based index options (9:30 a.m. to 4:15 p.m. New York time) will apply. Options on the Index will expire on the Saturday following the third Friday of the expiration month ("Expiration Friday"). The last trading day in an option series will normally be the second to last business day preceding the Saturday following the third Friday of the expiration month (normally a Thursday). Trading in expiring options will cease at the close of trading on the last trading day. The exercise settlement value for all of the Index's expiring options will be calculated based upon the most recent official closing price of each of the component securities as reported by the HKSE on the last trading day prior to expiration.

The Exchange plans to list options series with expirations in the three near-term calendar months and in the two additional calendar months in the March cycle. In addition, longer term option series having up to thirty-six months to expiration may be traded. In lieu of such long-term options on a full-value Index level, the Exchange may instead list long-term, reduced-value put and call options based on one-tenth (1/10th) the Index's full value. In either event, the interval between expiration months for either a full-value or reduced-value long-term option will not be less than six months.

Exchange Rules Applicable to Stock Index Options

Amex Rules 900C through 980C will apply to the trading of standardized and long-term option contracts based on the Index. These rules cover issues such as sales practices, margin requirements, exercise prices, position limits, and floor trading procedures. Surveillance procedures currently used to monitor trading in each of the Exchange's other index options will also be used to monitor trading in options on the Index. The Index is deemed to be a Stock Index Option under Rule 901C(a) and a Broad Stock Index Group under Rule 900C(b)(1). With respect to Rule 903C(b), the Exchange proposes to list near-the-month (i.e., within ten points above or below the current index value) option series on the Index at 2½ point strike (exercise) price intervals when the value of the Index is below 200 points. In addition, the Exchange proposes to establish, pursuant to Rule 903C(b), a position limit of 25,000 contracts on the same side of the market, provided no more than 15,000 of such contracts are in series in the nearest expiration month.

In anticipation of substantial customer activity in the options on this Index (including institutional activity), the Exchange seeks to have the ability to utilize its Auto-Ex system for orders in the Index options of up to 99 contracts. Auto-Ex is the Exchange's automated execution system which provides for the automatic execution of market and marketable limit orders at the best bid or offer at the time the order is entered. The ability to use Auto-Ex for orders of up to 99 contracts will provide customers with deep, liquid markets as well as expeditious executions.

(2) Basis

The Exchange believes that the proposed rule change is consistent with section 6(b) of the Act, in general, and furthers the objectives of section 6(b)(5) in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Amex does not believe that the prpposed rule change will impose any inappropriate burden on competition.

[2] See note 1, *supra*.

[3] On October 15, 1993, the exchange rate for Hong Kong and U.S. dollars was 7.725.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the Amex. All submissions should refer to File No. SR–Amex–93–32 and should be submitted by January 7, 1994.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[4]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–30564 Filed 12–14–93; 8:45 am]

BILLING CODE 8010–01–M

[4] 17 CFR 200.30–3(A0(12) (1993).

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges; Opportunity for Hearing; Chicago Stock Exchange, Incorporated

December 9, 1993.

The above named national securities exchange has filed applications with the Securities and Exchange Commission ("Commission") pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f–1 thereunder for unlisted trading privileges in the following security:

Property Trust of America
Cum. Conv. Class A Pfd. Shares of Beneficial Interest, $1.00 Par Value (File No. 7–11663)

This security is listed and registered on one or more other national securities exchange and is reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before January 3, 1994, written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 93–30512 Filed 12–14–93; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–33303; File No. SR–Phlx–93–39]

Self-Regulatory Organizations; Filing of Proposed Rule Change by Philadelphia Stock Exchange, Inc. To Adopt a Supervision Rule

December 8, 1993.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on November 2, 1993, the Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization.[1] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Phlx, pursuant to Rule 19b–4 of the Act, proposes to adopt a comprehensive supervision rule. Specifically, Phlx Rule 748 would be amended to add detailed supervision requirements. The following is the text of the proposal, with italics representing language proposed to be added and brackets representing language proposed to be deleted: Supervision [of Accounts]

Rule 748 *(a)*. Every member is required either personally or through a general partner or an officer who is a holder of voting stock in his organization to supervise diligently all accounts handled by [branch office managers, customers' men and service men] *registered representatives* employed by such organization.

(b) Each office, department or business activity of a member, member organization, participant or participant organization (including foreign incorporated branch offices) shall be under the supervision and control of the member, member organization, participant or participant organization establishing it and of the personnel delegated such authority and responsibility.

The person in charge of a group of employees shall reasonably discharge his duties and obligations in connection with supervision and control of the activities of those employees related to the business of their employer and compliance with securities laws and regulations.

(c) The general partners or directors of each member organization or participant organization shall provide for appropriate supervisory control and shall designate a general partner or principal executive officer to assume overall authority and responsibility for internal supervision and control of the organization and compliance with securities laws and regulations. This person shall:

(1) delegate to qualified principals or employees responsibility and authority for supervision and control of each office, department or business activity, and provide for appropriate written procedures of supervision and control.

[1] The Exchange made certain grammatical changes to the proposed rule on December 2, 1993. Telephone conversation between Gerald D. O'Connell, Vice President, Market Surveillance, and Kathy Simmons, Division of Market Regulation, SEC (Dec. 2, 1993).

(2) establish a separate system of follow-up and review to determine that the delegated authority and responsibility are being properly exercised.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Phlx proposes to amend its Rule 748 ("Supervision Rule") to adopt a comprehensive supervision requirement comparable to the rules of other exchanges.[2] Currently, the rule requires members to supervise activities in customer accounts handled by the firm's registered employees. The proposed rule change would expand upon this requirement by adding a requirement that all offices, departments and business activities of members and member organizations be under the supervision and control of such member and that the responsibility of doing so be affirmatively delegated to persons within the firm. Proposed Rule 748(c) details the delegation of such responsibility to qualified persons. Members will be required to develop and maintain written supervisory procedures.

2. Statutory Basis

The proposed rule change is consistent with section 6 of the Act in general, and in particular, with section 6(b)(5), in that it is designed to prevent fraudulent and manipulative acts and practices, as well as to protect investors and the public interest. Specifically, the proposed Supervision Rule is intended to fortify the Exchange's supervision requirements to bring them in line with those of other exchanges. The Exchange believes that the proposed rule should strengthen the Exchange's ability to examine member organizations for compliance with supervisory requirements by compelling that written supervisory procedures be maintained.

[2] See, e.g., New York Stock Exchange Rule 342.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Phlx does not believe that the proposed rule change will impose any inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the publication of this notice in the **Federal Register** or within such other period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve the proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the Phlx. All submissions should refer to File No. SR–Phlx–93–39 and should be submitted by January 5, 1994.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–30511 Filed 12–14–93; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–33302; File No. SR–Phlx–93–53]

December 8, 1993.

Self-Regulatory Organizations; Filing of Proposed Rule Change by Philadelphia Stock Exchange, Inc. to Adopt Rule 708, Acts Detrimental to the Interest or Welfare of the Exchange

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on November 4, 1993, the Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items, I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Phlx, pursuant to Rule 19b–4 of the Act, proposes to adopt new Phlx Rule 708, Acts Detrimental to the Interest or Welfare of the Exchange. The following is the text of the proposed rule change: (All new text)

Acts Detrimental to the Interest or Welfare of the Exchange Rule 708. A member, member organization, or person associated with or employed by a member or member organization shall not engage in acts detrimental to the interest or welfare of the Exchange.

Commentary .01

Acts which could be deemed detrimental to the interest or welfare of the Exchange include, but are not limited to, the following:

(a) Conviction or guilty plea to any felony charge or any securities or fraud-related criminal misconduct;

(b) Use or attempted use of unauthorized assistance while taking any securities industry or Exchange-related qualification examination;

(c) Failure to make a good faith effort to pay any fees, dues, fines or other monies due and owing to the Exchange;

, (d) Destruction or misappropriation of Exchange or member property;

(e) Misconduct on the trading floor, in violation of the Exchange's Order and Decorum Regulations, that is repetitive, egregious or of a publicly embarrassing nature to the Exchange.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Phlx proposes to adopt Rule 708, Acts Detrimental to the Interest or Welfare of the Exchange. The proposed rule provides the Exchange with a rule citation respecting unethical behavior not necessarily related to trading principles or handling of accounts. The aforementioned violations are typically covered by Phlx Rule 707, Just and Equitable Principles of Trade. The Exchange believes that the new rule will serve as a more appropriate jurisdictional basis for such acts as failure to make a good faith effort to pay Exchange fees. Commentary .01 lists examples of acts covered by the new rule.

2. Statutory Basis

The proposed rule change is consistent with section 6 of the Act in general, and in particular, with section 6(b)(5), in that it is designed to promote just and equitable principles of trade, prevent fraudulent and manipulative acts and practices, as well as to protect investors and the public interest. Specifically, the Exchange believes that proposed Rule 708 should improve the Exchange's disciplinary program and discourage the acts cited in the rule.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Phlx does not believe that the proposed rule change will impose any inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the publication of this notice in the **Federal Register** or within such other period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve the proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the Phlx. All submissions should refer to File No. SR–Phlx–93–53 and should be submitted by January 5, 1994.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–30510 Filed 12–14–93; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–33301; File No. SR–PHLX–93–06]

Self-Regulatory Organizations; Order Approving Proposed Rule Change by the Philadelphia Stock Exchange, Inc., Relating to the Listing of $25 Strike Price Intervals for Options on the Over-the-Counter Index and the Value Line Index

December 8, 1993.

On March 11, 1993, the Philadelphia Stock Exchange, Inc. ("PHLX" or Exchange") submitted to the Securities and Exchange Commission ("SEC" or "Commission"), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] a proposed rule change to add Commentary .02 to PHLX Rule 1101A, "Terms of Option Contracts," which will allow the Exchange to list option strike prices in the far-term series (nine months to expiration) of the National Over-the-Counter Index ("XOC") and the Value Line Index ("VLE," and, with the XOC, the "Indexes") at $25.00 intervals unless there is demonstrated customer interest in $5.00 strike price intervals.

The proposed rule change was published for comment in Securities Exchange Act Release No. 33001 (October 1, 1993), 58 FR 53009.[3] No comments were received on the proposal.

Currently, the PHLX lists options on the Indexes at strike price intervals of $5.00 surrounding the current value of

[1] 15 U.S.C. 78s(b)(1) (1982).

[2] 17 CFR 240.19b–4 (1993).

[3] The PHLX amended its proposal to add new Commentary .02 to Exchange Rule 1101A, which provides, in part, that exercise prices in the far-term series of options on the National Over-the-Counter Index ("XOC") and on the Value Line Index ("VLE") shall be $25.00, unless demonstrated customer interest exists at $5.00 intervals. For the purposes of proposed Commentary the PHLX defines "demonstrated customer interest" to include "institutional (firm), corporate or customer interest expressed directly to the Exchange or through the customer's floor brokerage unit, but not interest expressed by a Registered Options Trader ("ROT") with respect to trading for the ROT's own account." See Letter from Gerald D. O'Connell, Vice President, Market Surveillance, PHLX, to Yvonne Fraticelli, Attorney, Options Branch, Division of Market Regulation ("Division"), Commission, dated April 15, 1993 ("Amendment No. 1"), and Telephone Conversation between Edith Hallahan, Attorney, Market Surveillance, PHLX, and Yvonne Fraticelli, Staff Attorney, Options Branch, Division, Commission, on August 19, 1993 (confirming that the proposed Commentary will be numbered .02 rather than .01). In addition, on December 3, 1993, the PHLX distributed a memorandum to its members advising them of the proposal. The PHLX has indicated that it will distribute an additional memorandum five days prior to implementing the proposal. *See* Letter from Edith Hallahan, Special Counsel, Regulatory Services, PHLX, to Richard Zack, Branch Chief, Options Regulation, Division, Commission, dated December 3, 1993.

the Indexes.[4] The PHLX proposes to amend its rules by adding Commentary .02 to PHLX Rule 1101A, "Terms of Option Contracts," which will allow the Exchange to list strike prices in the far-term series (nine months to expiration) of the Indexes at $25.00 intervals unless there is demonstrated customer interest in $5.00 strike price intervals. For the purposes of Commentary .02, the PHLX defines "customer interest" to include "institutional (firm), corporate or customer interest expressed directly to the Exchange or through the customer's floor brokerage unit, but not interest expressed by a ROT with respect to trading for the ROT's own account.[5] The PHLX states that its definition of "customer interest" is designed to ensure that only legitimate customer requests lead to the listing of additional $5.00 strike prices in the far-term series of the Indexes.[6]

Each quarter, the PHLX lists a far-term series for XOC and VLE options to trade for nine months. Under the proposed rule change, the far-term series of XOC and VLE options will be listed with $25.00 strike price intervals until there are less than six months remaining until expiration, when the intervening strike prices will be listed at $5.00 intervals. For example, after the March expiration of XOC and VLE options, the PHLX would list the December series for both options at $25.00 strike price intervals. In addition, as noted above, the Exchange plans to list additional strike prices in the far-term series of XOC and VLE options in response to a customer request at any time.

In response to member requests, the Exchange reviewed trading data and found that limited volume occurs in the far-term series of the Indexes.[7] The Exchange notes that with the value of the Indexes ranging from $300 to $600, the $25.00 interval established in the proposal will preserve key trading strategies because $25.00 often represents a 2½ point movement in the Indexes, which is similar to a stock trading at $25.00 or less whose option is traded at 2½ point strike price intervals.

The PHLX states that the proposal is designed to reduce the number of strikes listed in inactively traded series. After the December 1992 expiration, for example, nine strike prices were listed in the September series of both Indexes.[8] The PHLX notes that all of these strike prices must be displayed on screens on the trading floor, disseminated to outside vendors and monitored by the Exchange's specialists. The Exchange states that the bids and offers are often substantially similar for many of the far-term strike prices and series because the volatility levels do not differ significantly. The Exchange believes that the proliferation of strike prices in far-term series does not provide significant market opportunities that would be lost if fewer strike prices were listed.

In addition, the PHLX notes that the elimination of excessive strike prices should help to reduce instances of wrap-around.[9] The PHLX states that wrap-arounds and the use of new symbols create an operational burden for the Exchange and its member firms and may result in confusion to investors seeking to ascertain options markets from display screens.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of section 6(b)(5).[10] Specifically, the Commission believes that the proposal is designed to protect investors and the public interest and to remove impediments to and perfect the mechanism of a free and open market by allowing the PHLX to reduce the number of outstanding far-term XOC and VLE options series in which there is limited investor interest while preserving the Exchange's ability to list additional far-term series in response to customer requests. Because the strike prices for the far-term XOC and VLE series must be displayed on the Exchange's trading floor, disseminated to outside vendors and monitored by specialists, the Commission believes that the listing of far-term XOC and VLE options at $25.00 intervals, rather than $5.00 intervals, should reduce the operational burden associated with the listing of strike prices in inactive series of XOC and VLE options. In addition, the Commission believes that the proposal should help to eliminate potential investor confusion associated with the "wrap-around," when all 26 characters used to indicate the strike price have been taken and additional strike prices must be listed with a different root symbol.

The Commission believes that the proposal strikes a reasonable balance between the Exchange's interest in limiting the number of outstanding strike prices in inactive far-term series and its interest in accommodating the needs of investors. In this regard, the Commission notes that the PHLX has stated that the listing of strike prices at $25.00 intervals in far-term XOC and VLE series should preserve key trading strategies. In addition, the Commission believes that the provision allowing the Exchange to list additional far term series at $5.00 intervals in response to genuine customer requests should provide the Exchange with the flexibility to meet the needs of investors and, in turn, should allow investors to establish options positions that are tailored to meet their investment objectives. The Commission believes that the customer request provision should help to ensure the availability of options series that will provide investors with a means to adequately hedge their portfolios and implement their trading strategies.[11]

It is therefore Ordered, pursuant to section 19(b)(2) of the Act,[12] that the proposed rule change (File No. SR–PHLX–93–06) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[13]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–30565 Filed 12–14–93; 8:45 am]

BILLING CODE 8010–01–M

[4] See Securities Exchange Act Release Nos. 21576 (January 18, 1985), 50 FR 3445, and 22044 (May 17, 1985), 50 FR 21532 (notice and order approving XOC options); and 21392 (October 10, 1984), 49 FR 40987, and 21513 (November 21, 1984), 49 FR 46857 (notice and order approving VLE options).

[5] See Amendment No. 1, *supra* note 1.

[6] See Amendment No. 1, *supra* note 1.

[7] For example, during the months of January through July 1992, trading volume in the far-term series (six-month and nine-month) of both the XOC and VLE generally constituted less than 5%, and often only 1%, of the total volume in each option.

[8] Specifically, after the December 1992 expiration, the Exchange began trading the September 1993 series of options, including XOC September 500, 505, 510, 520, 525, 530, 535, and 540 calls and puts as well as VLE September 350, 355, 360, 365, 370, 375, 380, 385, and 390 calls and puts. Under the proposal, only three additional September VLE series and three additional XOC series would be listed. The Exchange notes that due to a "wrap-around situation" (which occurs when all 26 characters indicating the strike price of an options have been used and additional strike prices require listing the option with a different root symbol) in the September XOC series, strike prices of 520 and higher will be traded under the root symbol XOW, rather than XOC.

[9] See note 8, *supra*, for a definition and example of a "wrap-around," where XOC March 420 calls (XOC CD) use the symbol CD, with the D used to denote 420, such that the September 520 calls (XOC ID) would have used the same symbol, D, to mean 520. Thus, the root symbol was changed from XOC to XOW and the September 520 calls listed with the symbol XOW ID, with the D denoting the 520 strike price.

[10] 15 U.S.C. 78f(6)(5) (1982).

[11] The Commission expects the Exchange to monitor the listing of additional strikes in order to ensure that new strikes are added only in response to "customer" requests, as defined in Amendment No. 1.

[12] 15 U.S.C. 78s(b)(2) 1982).

[13] 17 CFR 200.30–3(a)(12) 1993).

[Release No. 34–33304; File No. SR–Phlx–92–34]

Self-Regulatory Organizations; Order Approving Proposed Rule Change by the Philadelphia Stock Exchange, Inc., Relating to Examination Specifications for Equity Options and Foreign Currency Options Qualification Examinations

December 9, 1993.

On December 21, 1992, the Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("Commission"), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] a proposed rule change to allow the Commission to review the contents and administration of the Exchange's Equity Options Qualification Examination and Foreign Currency Options Qualification Examination (collectively, the "Qualification Examinations").[3] Notice of the proposal appeared in the **Federal Register** on October 4, 1993.[4] No comment letters were received on the proposed rule change. This order approves the Exchange's proposal.

The Phlx's Qualification Examinations were created by the Exchange as a regulatory initiative designed to codify, clarify, and give specificity to compliance obligations of equity options floor members and foreign currency options floor participants.[5] The Qualification Examinations are intended to ensure that Exchange members have the requisite knowledge, skill, and ability necessary to carry out their job responsibilities.

The Phlx administers the Qualification Examinations pursuant to Phlx By-laws Article X, Section 10–6 and Article XII, Section 12–4, and Phlx Rules 901 and 1061. Specifically, pursuant to Phlx Rule 901, the Exchange may deny membership to any applicant that does not successfully complete such written proficiency examinations as are required by the Exchange to enable it to examine and verify the applicant's qualifications to function in the capacities applied for.

The Qualification Examinations are administered by the Exchange's Market Surveillance Department. All applicants for Exchange membership must take either the Equity Options Qualification Examination or the Foreign Currency Options Qualification Examination, depending on whether equity options floor membership or foreign currency options floor participation is sought. The Equity Options Qualification Examination consists of 100 questions and requires applicants to pay a $50 fee to the Exchange. The Foreign Currency Options Qualification Examination consist of 60 questions and requires applicants to pay a $20 fee to the Exchange. The Phlx has prepared study packets pertaining to each examination which the Exchange's Market Surveillance Department distributes to applicants upon request. A score of 70% or better is required to pass each examination.[6] Applicants who do not successfully complete a Qualification Examination will be required to retake the entire examination.

The Exchange asserts that the Qualification Examinations are specifically designed for Phlx membership applicants in order to test the applicants' knowledge in a variety of areas, including general options trading principles and procedures, foreign currency options (including cross-rate foreign currency options) trading principles and procedures, requirements under the Act, and specific Phlx rules and policies. In addition, the Exchange believes that the proposed rule change is designed to examine the training, experience, and competence of applicants for Phlx membership. Accordingly, the Phlx believes that the proposal is consistent with section 6(b) of the Act, and furthers the objectives of sections 6(b)(5), 6(c)(3)(A), and 6(c)(3)(B), in particular.

After careful review, the Commission has determined that the proposed rule change relating to the Phlx's Qualification Examinations is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of section 6.[7] Specifically, the Commission finds that the proposed rule change is consistent with sections 6(c)(3) (A) and (B) which provide that a national securities exchange may prescribe standards of training, experience, and competence for members or persons associated with its members.[8]

The Commission believes that the Qualification Examinations will help to ensure that only those candidates with a comprehensive knowledge of the Act and the rules thereunder, the specific rules of the Exchange, and an understanding of relevant options trading principles and procedures will be eligible to become Exchange members. By ensuring this requisite level of knowledge, the Exchange can remain confident that its members have demonstrated an acceptable level of options trading knowledge.

The Commission also believes, as noted above, that the proposal is consistent with section 6(c)(3) (A) and (B) of the Act, which sets forth the basis upon which a national securities exchange may deny membership to, or condition the membership of, a registered broker-dealer, or may bar a natural person from becoming a member or associated with a member, or condition the membership of a natural person or association of a natural person with a member of an exchange. By tailoring the Qualification Examinations with the purpose of evaluating the applicant's knowledge of specific Exchange rules and policies, the Exchange is confirming that such applicants have the minimum requisite knowledge, training, experience, and competence to become members.

In this regard, the Commission has carefully reviewed the format and substantive areas tested on each of the Qualification Examinations. In reviewing the Qualification Examinations, the Commission focused on the level of difficulty and comprehensiveness of the specific Qualification Examination questions. After assessing the depth of knowledge

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[1] 15 U.S.C. 78s(b)(1) (1988).

[2] 17 CFR 240.19b–4 (1992).

[3] The Commission requires that all self-regulatory organizations file for review and approval all practices imposing qualification standards on their members. See Securities Exchange Act Release No. 17258 (October 30, 1980), 45 FR 73906.

[4] See Securities Exchange Act Release No. 32967 (September 27, 1993), 58 FR 51662.

[5] Pursuant to Phlx Rule 13, unless otherwise specifically provided in Exchange Rules, foreign currency options participants are subject to the same rules as Exchange members. Therefore, all references herein to Exchange members or membership in the Exchange also apply to foreign currency options participants.

[6] See Letter from Edith Hallahan, Special Counsel, Regulatory Services, Phlx, to Richard Zack, Branch Chief, Office of Derivatives Regulation, Division of Market Regulation, Commission, dated November 19, 1993.

[7] 15 U.S.C. 78f(b)(5) (1988).

[8] Section 6(c)(3)(A) of the Act provides that a national securities exchange may deny membership to, or condition the membership of, a registered broker-dealer if such broker-dealer does not meet such standards of training, experience, and competence as are prescribed by the rules of the exchange. Section 6(c)(3)(B) of the Act provides that a national securities exchange may bar a natural person from becoming a member or associated with a member, or condition the memberships of a natural person or association of a natural person with a member, if such natural person does not meet standards of training, experience, and competence as prescribed by the rules of the exchange. Accordingly, a national securities exchange may examine and verify the qualifications of an applicant to become a person associated with a member in accordance with procedures established by the rules of the exchange and require any person associated with a member, or any class of such persons, to be registered with the exchange in accordance with procedures so established.

required to pass the Qualification Examinations, the Commission concludes that the Qualification Examinations should sufficiently reflect the requisite minimum knowledge an applicant must possess to comply with Phlx rules as well as with the pertinent rules and regulations of the Act.

In addition, the Commission believes that the proposed rule change is consistent with section 15(b)(7)[9] of the Act which requires that prior to effecting any transaction in, or inducing the purchase or sale of, any security, a registered broker-dealer must meet certain standards of operational capability, and that such broker-dealer (and all natural persons associated with such broker-dealer) must meet certain standards of training, experience, competence, and other qualifications as the Commission finds necessary or appropriate in the public interest or for the protection of investors. The Commission believes that each of the Phlx's Qualification Examinations should satisfy the requirements of section 15(b)(7) by requiring applicants for membership to demonstrate requisite knowledge, training, and competence to satisfactorily discharge their individual duties on either the Exchange's equity options floor or the foreign currency options floor.

It is therefore ordered, Pursuant to section 19(b)(2) of the Act,[10] that the proposed rule change (SR–Phlx–92–34) is hereby approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[11]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–30566 Filed 12–14–93; 8:45 am]

BILLING CODE 8010-01-M

Issuer Delisting; Application To Withdraw From Listing and Registration; (Fruit of the Loom, Inc., Class A Common Stock, $.01 Par Value) File No. 1–8941

December 9, 1993.

Fruit of the Loom, Inc. ("Company") has filed an application with the Securities and Exchange Commission ("Commission"), pursuant to Section 12(d) of the Securities Exchange Act of 1934 ("Act") and Rule 12d2–2(d) promulgated thereunder, to withdraw the above specified security from listing and registration on the American Stock Exchange, Inc. ("Amex").

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

According to the Company, in addition to being listed on the Amex, its Class A Common Stock is listed on the New York Stock Exchange, Inc. ("NYSE"). The Company's Class A Common Stock commenced trading on the NYSE at the opening of business on December 3, 1993 and concurrently therewith such stock was suspended from trading on the Amex.

In making the decision to withdraw its Class A Common Stock from listing on the Amex, the Company considered the direct and indirect costs and expenses attendant in maintaining the dual listing of its Class A Common Stock on the NYSE and on the Amex. The Company does not see any particular advantage in the dual trading of its Class A Common Stock and believes that dual listing would fragment the market for the Class A Common Stock.

Any interested person may, on or before January 3, 1994 submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549, facts bearing upon whether the application has been made in accordance with the rules of the exchanges and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 93–30513 Filed 12–14–93; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC–19938; 812–8566]

Putnam Adjustable Rate U.S. Government Fund, et al.; Application

December 8, 1993.

AGENCY: Securities and Exchange Commission ("SEC" or "Commission").

ACTION: Notice of application for exemption under the Investment Company Act of 1940 (the "Act").

APPLICANTS: Putnam Adjustable Rate U.S. Government Fund, Putnam American Government Income Fund, Putnam Arizona Tax Exempt Income Fund, Putnam Asia Pacific Growth Fund, Putnam Balanced Government Fund, Putnam California Tax Exempt Income Fund, Putnam California Tax Exempt Money Market Fund, Putnam Capital Appreciation Fund, Putnam Capital Growth and Income Fund, Putnam Convertible Income-Growth Trust, Putnam Corporate Asset Trust, Putnam Daily Dividend Trust, Putnam Diversified Income Trust, Putnam Dividend Growth Fund, Putnam Energy-Resources Trust, Putnam Europe Growth Fund, Putnam Equity Income Fund, Putnam Federal Income Trust, Putnam Florida Tax Exempt Income Fund, The George Putnam Fund of Boston, Putnam Global Governmental Income Trust, Putnam Global Growth Fund, Putnam Growth Fund, The Putnam Fund for Growth and Income, Putnam Health Sciences Trust, Putnam High Income Government Trust, Putnam High Yield Advantage Trust, Putnam High Yield Trust, Putnam Income Fund, Putnam Investors Fund, Putnam Life Stages Asset Allocation Trust, Putnam Massachusetts Tax Exempt Income Fund II, Putnam Michigan Tax Exempt Income Fund II, Putnam Minnesota Tax Exempt Income Fund II, Putnam New Jersey Tax Exempt Income Fund, Putnam New Opportunities Fund, Putnam New York Tax Exempt Income Fund, Putnam New York Tax Exempt Money Market Fund, Putnam New York Tax Exempt Opportunities Fund, Putnam Ohio Tax Exempt Income Fund II, Putnam OTC Emerging Growth Fund, Putnam Overseas Growth Fund, Putnam Pennsylvania Tax Exempt Income Fund, Putnam Research Analysts Fund, Putnam Strategic Income Trust, Putnam Tax Exempt Income Fund, Putnam Tax Exempt Money Market Fund, Putnam Tax-Free Income Trust, Putnam Texas Tax Exempt Income Fund, Putnam U.S. Government Income Trust, Putnam Utilities Growth and Income Fund, Putnam Vista Fund, Putnam Voyager Fund (the "Funds"), Putnam Mutual Funds Corp. (the "Distributor"),[1] and Putnam Investment Management, Inc. (the "Manager").[2]

RELEVANT ACT SECTIONS: Exemptions requested under section 6(c) from the provisions of sections 2(a)(32), 2(a)(35), 22(c), and 22(d) of the Act and rule 22c–1 thereunder.

SUMMARY OF APPLICATION: Applicants seek an amendment to a prior order that permits applicants (a) to issue multiple classes of shares representing interests in the same portfolio of securities, and (b) to assess a contingent deferred sales charge ("CDSC") on certain redemptions

[9] 15 U.S.C. 78o(b)(7) (1989).

[10] 15 U.S.C. 78s(b)(2) (1988).

[11] 17 CFR 200.30–3(a)(12) (1992).

[1] Formerly Putnam Financial Services, Inc.

[2] Formerly The Putnam Management Company, Inc.

of shares of the funds and to waive the CDSC in certain cases (the "Prior Order").[3] The amended order would permit applicants to waive the CDSC on redemptions of up to a specified portion of a shareholder's account in connection with a systematic withdrawal plan. Applicants request that any relief granted pursuant to the application also apply to any future open-end investment company registered under the Act whose principal underwriter is the Distributor or an affiliate of the Distributor, and whose shares are divided into two or more classes with differing voting rights pursuant to the Prior Order and/or that employs a CDSC in a manner substantially similar to that described in the application and in the application filed in connection with the Prior Order (the "Prior Application").

FILING DATE: The application was filed on September 9, 1993, and amended on December 3, 1993.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving the applications with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on January 3, 1994, and should be accompanied by proof of service on the applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549. Applicants, One Post Office Square, Boston, Massachusetts 02109.

FOR FURTHER INFORMATION CONTACT: John V. O'Hanlon, Senior Attorney, at (202) 272–3922, or Elizabeth G. Osterman, Branch Chief, at (202) 272–3016 (Office of Investment Company Regulation, Division of Investment Management).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicant's Representations

1. The Funds currently waive or reduce the CDSC on redemptions (a) following the death or disability, as defined in section 72(m)(7) of the Internal Revenue Code of 1986, as amended, of a shareholder if redemption is made within one year of death or disability of a shareholder; and (b) in connection with certain distributions from an IRA or other qualified retirement plan.

2. Applicants seek to amend the Prior Order to permit the Fund to waive or reduce the CDSC on redemptions of up to a specified portion of a shareholder's account in connection with a systematic withdrawal plan or any similar plan pursuant to which a Fund, at the request of a shareholder, automatically redeems a portion of the shareholder's account at regular intervals. The portion of a shareholder's account that may be redeemed pursuant to such a plan without a CDSC will be determined from time to time by the Fund's trustees, and will be disclosed in the Funds' prospectuses. If the Funds waive or reduce the CDSC, such waiver or reduction will be uniformly applied to all offerers in the class specified.

Applicants' Legal Analysis

1. Applicants seek an amended order exempting them from sections 2(a)(32), 2(a)(35), 22(c), and 22(d) of the Act and rule 22c–1 thereunder.

2. Applicants state that the imposition of a CDSC in connection with a systematic withdrawal plan likely would deter participation in such plan. Accordingly, applicants believe that the waiver of the CDSC may encourage greater participation in systematic withdrawal plans in circumstances where such participation would be in the best interests of shareholders.

3. For the reasons set forth in the Prior Application, applicants assert that the requested relief is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicants' Condition

Applicants agree that any order of the Commission granting the requested relief shall be subject to the following condition:

Applicants will comply with the provisions of proposed rule 6c–10 under the Act, Investment Company Act Release No. 16619 (Nov. 2, 1988), as such rule is currently proposed and as it may be reproposed, adopted, or amended.

[3] Investment Company Act Release Nos. 18637 (Mar. 30, 1992) (notice) and 18676 (Apr. 24, 1992) (order).

For the SEC, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–30514 Filed 12–14–93; 8:45 am]

BILLING CODE 8010–01–M

[File No. 1–2207]

Issuer Delisting; Notice of Application To Withdraw From Listing and Registration; (Triarc Companies, Inc., Class A Common Stock, $.10 Par Value)

December 9, 1993.

Triarc Companies, Inc. ("Company") has filed an application with the Securities and Exchange Commission ("Commission"), pursuant to section 12(d) of the Securities Exchange Act of 1934 ("Act") and Rule 12d2–2(d) promulgated thereunder, to withdraw the above specified security from listing and registration on the American Stock Exchange, Inc. ("Amex").

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

According to the Company, in addition to being listed on the Amex, its common stock is listed on the New York Stock Exchange, Inc. ("NYSE"). The Company's common stock commenced trading on the NYSE at the opening of business on November 17, 1993 and concurrently therewith such stock was suspended from trading on the Amex. The Common Stock is also listed for trading on the Pacific Stock Exchange, Inc. ("PSE").

In making the decision to withdraw its common stock from listing on the Amex, the Company considered the direct and indirect costs and expenses attendant in maintaining the dual listing of its common stock on the NYSE and on the Amex. The Company does not see any particular advantage in the dual trading of its common stock and believes that dual listing would fragment the market for the common stock.

Any interested person may, on or before January 3, 1994 submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street NW., Washington DC 20549, facts bearing upon whether the application has been made in accordance with the rules of the exchanges and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application

after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 93–30515 Filed 12–14–93; 8:45 am]

BILLING CODE 8010–01–M

[Release No. IC–19942; 811–4172]

Transportation Capital Corp.; Application for Deregistration

December 9, 1993.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for deregistration under the Investment Company Act of 1940 (the "Act").

APPLICANT: Transportation Capital Corp.

RELEVANT ACT SECTION: Section 8(f).

SUMMARY OF APPLICATION: Applicant seeks a conditional order declaring that it has ceased to be an investment company under the Act.

FILING DATES: The application was filed on September 14, 1993, and amended on November 23, 1993.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, either personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on January 3, 1994, and should be accompanied by proof of service on applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549. Applicant, 315 Park Avenue South, New York, New York 10010–3607.

FOR FURTHER INFORMATION CONTACT: James J. Dwyer, Staff Attorney, at (202) 504–2920, or Elizabeth G. Osterman, Branch Chief, at (202) 272–3016 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant, a New York corporation, is a closed-end investment company and a small business investment company (a "SBIC") regulated by the United States Small Business Administration (the "SBA"). On December 7, 1984, applicant filed a notification of registration under section 8(a) of the Act. On April 4, 1985, applicant filed a registration statement under section 8(b) of the Act and the Securities Act of 1933. Pursuant to the registration statement, which was declared effective September 26, 1985, applicant issued shares of its common stock (the "Shares") through a public offering. There has been no other public offering of applicant's securities, and applicant presently does not intend to make any other public offering of its securities.

2. As of November 22, 1993, there were 2,486,804 outstanding Shares. Leucadia National Corporation ("Leucadia") beneficially owns approximately 99 percent of the Shares through purchases made by its indirect 100 percent owned subsidiaries, LNC Investments, Inc. ("LNC") and TCC Purchase Co. ("TCC Purchase"). Eighty-three shareholders other than LNC and TCC Purchase (the "Minority Shareholders") own the remaining one percent of the Shares.

3. As of November 22, 1993, there were 3,383⅓ shares outstanding of applicant's three percent cumulative preferred stock, all of which were held by the SBA. Applicant also has outstanding $11,405,000 aggregate principal amount of SBA guaranteed debentures. The debentures are not convertible into, exchangeable for, or accompanied by any equity security.

4. Following any order granted as a result of the application, Leucadia intends to effect a merger of its subsidiary, TCC Purchase, into applicant, with applicant surviving as an indirect wholly-owned subsidiary of Leucadia. The merger will be effected pursuant to applicable New York and Delaware law. The Minority Shareholders will be offered a cash payment equal to $4.50 per Share, the last price paid for the Shares, in connection with the merger. The net asset value per Share as of September 30, 1993, was $2.13. There is presently no active trading market for the Shares.

5. The merger will be effected only with the consent of the SBA. The termination of applicant's registration under the Act will not affect applicant's regulation by the SBA or its status as an SBIC. The proposed merger will have no effect upon the preferred stock and the debentures, which shall remain outstanding.

Applicant's Legal Analysis

1. Section 3(c)(1) of the Act exempts from the definition of an investment company issuers whose outstanding securities (other than commercial paper) are beneficially owned by not more than 100 persons, and which are not making and do not presently propose to make a public offering of their securities.

2. Section 3(c)(1)(A) provides that beneficial ownership by a company that owns 10 percent or more of the issuer is deemed to be beneficial ownership by the shareholders of the company, unless the value of securities owned by the company of all issuers that would be excluded from the definition of an investment company, but for that exception, does not exceed 10 percent of the value of the company's total assets. Applicant submits that it is the only investment company that fits the description of section 3(c)(1)(A) that is directly or indirectly owned by Leucadia, that Leucadia beneficially owns more than 10 percent of applicant, and that Leucadia's beneficial ownership of the Shares represents substantially less than one percent of Leucadia's total assets.

3. Rule 3c–2 provides that beneficial ownership by a company that owns 10 percent or more of the outstanding voting securities of an SBIC shall be deemed to be beneficial ownership by one person as long as the value of the securities of SBICs owned by the company does not exceed five percent of the value of its total assets. Applicant asserts that it is the only SBIC owned by Leucadia, and that Leucadia's ownership represents less than five percent of Leucadia's total assets. Applicant submits that, by virtue of section 3(c)(1)(A) and rule 3c–2, beneficial ownership of applicant by LNC and TCC Purchase will not pass to the Leucadia shareholders.

4. Applicant further submits that, pursuant to rule 3c–3, the debenture holders count, in the aggregate, as only one beneficial holder for the purposes of section 3(c)(1).

5. Accordingly, applicant believes that there currently are only 87 beneficial holders of its securities, and asserts that it is not making, and does not intend to make, a public offering of its securities. Based upon the foregoing applicant states that it is no longer an investment company, as defined in section 3.

Applicant's Condition

Applicant agrees that any order granting the requested relief will be

subject to the condition that applicant will maintain and make available to the SEC for a period of two years following the date of any final order declaring that applicant ceased to be an investment company, all of applicant's records required under rules 31a–1 and 31a–2 as if applicant were a registered investment company subject to sections 31(a) and 31(b) of the Act. The records to be kept under this condition shall be applicant's records up to and including the date of any final order declaring that applicant ceased to be an investment company.

For the SEC, by the Division of Investment Management, under delegated authority.

[FR Doc. 93–30567 Filed 12–14–93; 8:45 am]

BILLING CODE 8010–01–M

SMALL BUSINESS ADMINISTRATION

Hartford District Advisory Council; Public Meeting

The U.S. Small Business Administration Hartford District Advisory Council will hold a public meeting at 8:30 a.m. on Wednesday, January 12, 1994, at 2 Science Park, 3rd Floor, New Haven, Connecticut, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call Jo-Ann Van Vechten, Acting District Director, U.S. Small Business Administration, 330 Main Street, Hartford, Connecticut 06106, (203) 240–4670.

Dated: December 7, 1993.

Dorothy A. Overal,

Acting Assistant Administrator, Office of Advisory Councils.

[FR Doc. 93–30546 Filed 12–14–93; 8:45 am]

BILLING CODE 8025–01–M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. 93–56; Notice 2]

Porsche Cars North America, Inc.; Grant of Petition for Determination of Inconsequential Noncompliance

Porsche Cars North America, Inc. (Porsche) of Reno, Nevada, petitioned the agency on behalf of Dr. Ing. h.c.F. Porsche AG of Stuttgart, Germany, after determining that some of its replacement seat belts fail to comply with 49 CFR 571.209, Federal Motor Vehicle Safety Standard No. 209, "Seat Belt Assemblies." Porsche then filed an appropriate report pursuant to 49 CFR part 573, and, under part 556, also petitioned to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 *et seq.*) on the basis that the noncompliance is inconsequential as it relates to motor vehicle safety.

Notice of receipt of the petition was published on August 3, 1993, and an opportunity afforded for comment (58 FR 41321).

Paragraph S4.1(k) of Standard No. 209 requires that—

[a] seat belt assembly or retractor shall be accompanied by an instruction sheet providing sufficient information for installing the assembly in a motor vehicle except for a seat belt assembly installed in a motor vehicle by an automobile manufacturer. The installation instructions shall state whether the assembly is for universal installation or for installation only in specifically stated motor vehicles * * *.

In addition, Paragraph S4.1(l) requires that—

[a] seat belt assembly or retractor shall be accompanied by written instructions for the proper use of the assembly, stressing particularly the importance of wearing the assembly snugly and properly located on the body, and on the maintenance of the assembly and periodic inspection of all components. The instructions shall show the proper manner of threading webbing in the hardware of seat belt assemblies in which the webbing is not permanently fastened.

Between 1967 and June 1993, Porsche manufactured approximately 14,000 replacement seat belts which did not include the installation, usage, and maintenance instructions required by Standard No. 209. The instructions pertaining to threading and nonlocking retractors do not apply to Porsche's belt designs.

Porsche supported its petition for inconsequential noncompliance with the following:

Porsche has been supplying replacement seat belts since 1967 and is not aware of any complaints, incidents, or injuries attributable to the lack of installation, use, or maintenance instructions during this period of time. Like other vehicle manufacturers, Porsche maintains a detailed system of part numbers and information which is utilized by its dealer network to select and order replacement parts. The replacement seat belts are specified by location (i.e., left front seat), model type, and model year in the parts fiche or catalogs. Applicability of a seat belt is thus specified by the part number in the parts system.

Installation instructions for seat belts are provided in Porsche workshop manuals which are supplied to every Porsche dealer and which are also available for purchase [by] any customer. In addition, anyone replacing a set belt is likely to be able to reverse the removal steps for the belt being replaced. Any concerns that the replacement belt may be incorrect can be addressed by comparison with the old belt, or if it is not available, checking for the logical fitment of the new belt. In most cases, it will be obvious to the installer whether or not the belt fits properly in the available location.

Instructions for use and maintenance are supplied in Porsche Owner's Manuals. These instructions follow industry norms and contain no special requirements. [Porsche believes that] due to the small number of Porsche vehicles on the road and the very small number of replacement belts sold by Porsche, the probability of a customer needing this information and not having access to it in an owner's manual would be slight.

Porsche notes that NHTSA recently granted similar petitions from Nissan and other manufacturers on the same issue. For all the above reasons, Porsche believes that the noncompliance is inconsequential as it relates to motor vehicle safety and therefore NHTSA should grant this petition.

One comment was submitted on the petition. The National Automobile Dealers Association (NADA) supported it. In its view, the assemblies in question were vehicle specific, and therefore universal assembly instruction concerns are not applicable. NADA points out that dealers have several alternate sources of assembly installation information including service manuals, and for replacement assemblies, reversing the removal of existing belts. It appeared to the commenter that most if not all assemblies were replacements and not used in new aftermarket installations, and, for that reason, were likely installed by professionals. Since the belts were replacements, vehicle owners would already have been familiar with their usage and maintenance.

NHTSA agrees with the views of Porsche and NADA, which are similar to those the agency expressed in granting substantially similar petitions by Chrysler Corporation (57 FR 45865), Nissan Motors Corp. (58 FR 8651), Subaru of North America (58 FR 16736), Suzuki Motors (58 FR 32564) and Volkswagen of North America (58 FR 32565). Installation of replacement belts involves simply a reversal of the steps required for removal of the original belts, mitigating the failure to provide instructions. In addition to accompanying replacement belts, instructions regarding maintenance and usage are required to be in the operator's manual. The individual that this noncompliance will affect is the purchaser of a used Porsche without its manual, who then replaces the belts. The possibility of these conditions occurring is deemed slight. As in the

other cases, NHTSA has concluded that replacements obtained through Porsche parts outlets are likely to be the correct ones for the models concerned.

For the foregoing reasons, the petitioner has met its burden of persuasion that the noncompliance herein described is inconsequential as it relates to motor vehicle safety, and its petition is granted.

Authority: 15 U.S.C. 1417; delegations of authority at 49 CFR 1.50 and 49 CFR 501.8.

Issued on: December 9, 1993.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 93–30526 Filed 12–14–93; 8:45 am]

BILLING CODE 4910–59–M

DEPARTMENT OF THE TREASURY

Customs Service

[T.D. 93–95]

Revocation of Permit To Operate in the Norfolk Customs District Issued to John A. Steer, Inc.

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: General notice.

SUMMARY: Notice is hereby given that the permit issued to John A. Steer, Inc. to conduct Customs business in the Norfolk district has been revoked by operation of law pursuant to 19 CFR 111.45(b) due to the failure of the company to have a licensed individual within the district for a period of 180 days. This action is effective November 3, 1993.

Dated: December 8, 1993.

Jerry Laderberg,

Director, Office of Trade Operations.

[FR Doc. 93–30596 Filed 12–14–93; 8:45 am]

BILLING CODE 4820–02–M

Sunshine Act Meetings

Federal Register
Vol. 58, No. 239
Wednesday, December 15, 1993

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

FEDERAL ELECTION COMMISSION

FEDERAL REGISTER NUMBER: 93–30278.

PREVIOUSLY ANNOUNCED DATE & TIME:

Wednesday, December 15, 1993 at 10:00 a.m.

Meeting Open to the Public

The following item was withdrawn from the Agenda:

Advisory Opinion 1993–22: The Honorable Robert A. Roe.

PERSON TO CONTACT FOR INFORMATION: Mr. Fred Eiland, Press Officer, Telephone: (202) 219–4155.

Delores Hardy,

Administrative Assistant.

[FR Doc. 93–30736 Filed 12–13–93; 3:20 pm]

BILLING CODE 6715–01–M

FEDERAL HOUSING FINANCE BOARD

TIME AND DATE: 8:00 a.m., Wednesday, December 15, 1993.

PLACE: Board Room, Second Floor, Federal Housing Finance Board, 1777 F Street, NW., Washington, DC 20006.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED

PORTIONS OPEN TO THE PUBLIC: The Board will consider the following:

1. FHLBank System Reports
   A. Monthly Financial Report
   B. Monthly Membership Report
2. Affordable Housing Program (AHP) Proposed Rule
3. Affordable Housing Program Awards for Second Round 1993
4. Final Rule on Bank Lending to Capital Deficient Members

PORTIONS CLOSED TO THE PUBLIC: The Board will consider the following:

1. FHLBanks, Office of Finance, and Agency 1994 Budgets and System Performance Targets
2. Office of Finance Annual Debt Issuance Authorization for 1994
3. FHLBank Presidents/Managing Director, Office of Finance 1994 Appointments and 1994 Base Salaries
4. Financial Management Policy for the FHLBanks
5. Approval of the November Board Minutes
6. 1994 Appointed Director Process

The above matters are eligible for consideration in closed session pursuant to one or more of the provisions of section 552b(c)(6) and (9)(A) and (B) of title 5 of the United States Code.

The Board determined that agency business required its consideration of these matters on less than seven days notice to the public and that no earlier notice of these subject matters was practicable.

CONTACT PERSON FOR MORE INFORMATION: Elaine L. Baker, Executive Secretary to the Board, (202) 408–2837.

Philip L. Conover,

Managing Director.

[FR Doc. 93–30628 Filed 12–10–93; 4:44 pm]

BILLING CODE 6725–01–P

LEGAL SERVICES CORPORATION BOARD OF DIRECTORS

Executive Briefing to the Audit and Appropriations Committee Notice

TIME AND DATE: The Legal Services Corporation Board of Directors Audit and Appropriations Committee will receive an executive briefing on Sunday, December 19, 1993. Directors of all corporate offices will brief the Committee regarding the effect budgetary constraints have, and will continue to have, from an internal personnel and operational standpoint. The briefing, which will commence at 10:00 a.m. and conclude by 12:30 p.m., will be closed to the public. Briefings are held solely for informational purposes and the convened body cannot take action on matters brought before it. Accordingly, briefings are not subject to the provisions of the Government in the Sunshine Act nor the Corporation's regulation, Part 1622, governing the same. This notice is provided as a courtesy to interested parties.

PLACE: The Legal Services Corporation, 750 First Street, NE., The Board Room, 11th Floor, Washington, DC 20002, (202) 336–8800.

STATUS OF BRIEFING: Closed.

CONTACT PERSON: Patricia Batie, (202) 336–8800.

Date Issued: December 10, 1993.

Patricia D. Batie,

Corporate Secretary.

[FR Doc. 93–30629 Filed 12–10–93; 4:45 pm]

BILLING CODE 7050–01–M

LEGAL SERVICES CORPORATION BOARD OF DIRECTORS

Audit and Appropriations Committee Meeting Notice

TIME AND DATE: The Legal Services Corporation Board of Directors Audit and Appropriations Committee will meet on December 19–20, 1993. The meeting will commence at 1:00 p.m. on December 19th and at 9:00 a.m. on December 20, 1993.

PLACE: The Legal Services Corporation, 750 First Street, NE., The Board Room, 11th Floor, Washington, DC 20002, (202) 336–8800.

STATUS OF MEETING: *Open.* The public is invited to appear before the Audit and Appropriations Committee on December 19, 1993, commencing at 1:00 p.m., for the purpose of providing comment regarding the Corporation's proposed budgets for fiscal years 1994 and 1995. Individuals unable to attend the meeting are encouraged to submit written comments for the Committee's consideration. The comments should be submitted to Patricia Batie, Corporate Secretary, Legal Services Corporation, 750 First Street, NE., Washington, DC 20002.

MATTERS TO BE CONSIDERED:

Open Session:

1. Approval of Agenda.
2. Approval of Minutes of December 5–6, 1993 Meeting.
3. Consideration of Proposed Fiscal Year 1994 Consolidated Operating Budget for the Corporation.
   a. Consideration of Public Comment.
4. Consideration of Proposal on Development of the Corporation's Fiscal Year 1995 Budget Mark.
   a. Consideration of Public Comment.
5. Consideration of Proposal on Development of the Corporation's Fiscal Year 1995 Budget Request for Congress.
   a. Consideration of Public Comment.
6. Consideration of Proposed Fiscal Year 1994 Consolidated Operating Budget for the Corporation.
7. Consideration of Proposal on Development of the Corporation's Fiscal Year 1995 Budget Mark.
   a. Consideration of Proposed Content of Notice to be Issued to the Office of Management and Budget on the Fiscal Year 1995 Budget Mark of the Corporation.
8. Consideration of Proposal on Development of the Corporation's Fiscal Year 1995 Budget Request for Congress.

CONTACT PERSON FOR INFORMATION: Patricia Batie, (202) 336–8800.

Upon request, meeting notices will be made available in alternate formats to accommodate visual and hearing impairments.

Individuals who have a disability and need an accommodation to attend the meeting may notify Patricia Batie at (202) 336–8800.

Date Issued: December 10, 1993.

Patricia D. Batie,

Corporate Secretary.

[FR Doc. 93–30630 Filed 12–10–93; 4:45 pm]

BILLING CODE 7050–01–M

federal register

Wednesday
December 15, 1993

Part II

Environmental Protection Agency

40 CFR Parts 141 and 143
National Primary and Secondary Drinking Water Regulations; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 141 and 143

[WH–FRL–4685–4]

National Primary and Secondary Drinking Water Regulations: Analytical Methods for Regulated Drinking Water Contaminants

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve several new analytical methods and update previously approved methods for a number of regulated chemical, microbiological, and physical contaminants in drinking water. The Agency is also proposing to withdraw approval for outdated methods and outdated versions of the same method. A primary reason for the rule would be to reduce the number of method versions that laboratories are required to use to the single, most recent version for a contaminant, or group of contaminants. It would allow laboratories to use fewer method versions for a greater number of regulated contaminants, and thus reduce laboratory transactional costs and improve accuracy.

DATES: Comments should be postmarked or delivered by hand on or before January 31, 1994.

ADDRESSES: Send written comments to Chemistry Methods Docket Clerk, Water Docket (MC–4101); U.S. Environmental Protection Agency; 401 M Street SW., Washington, DC 20460. Please submit any references cited in your comments. EPA would appreciate an original and three copies of your comments and enclosures (including references). Commenters who want EPA to acknowledge receipt of their comments should include a self-addressed, stamped envelope. No facsimiles (faxes) will be accepted.

To insure that EPA can read, understand and therefore properly respond to comments, the Agency would prefer for commenters to type or print comments in ink, and to cite where possible, the paragraph(s) in this proposed regulation (e.g. § 141.40(g)(10)(ii)) to which each comment refers. Commenters should use a separate paragraph for each method or issue discussed.

The proposed rule with supporting documents (including the methods to be incorporated by reference) and all comments received are available for review at the Water Docket at the address above. For access to Docket materials, call (202) 260–3027 between 9 a.m. and 3:30 p.m. for an appointment.

FOR FURTHER INFORMATION CONTACT: The Safe Drinking Water Hotline, Telephone (800) 426–4791. The Safe Drinking Water Hotline is open Monday through Friday, excluding Federal holidays, from 9 a.m. to 5:30 p.m. Eastern Time. For technical questions, contact Baldev Bathija, Ph.D., or Paul S. Berger, Ph.D., Office of Ground Water and Drinking Water (MC–4603), U.S. Environmental Protection Agency, 401 M Street SW., Washington DC 20460, telephone (202) 260–3040 (Dr. Bathija) or (202) 260–3039 (Dr. Berger); or Richard Reding, Ph.D., Office of Ground Water and Drinking Water (TSD), U.S. Environmental Protection Agency, Cincinnati, Ohio 45268, telephone (513) 569–7946.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Statutory Authority

The Safe Drinking Water Act (SDWA or the Act), as amended in 1986, requires EPA to promulgate national primary drinking water regulations (NPDWRs) which specify maximum contaminant levels (MCLs) or treatment techniques for drinking water contaminants (42 U.S.C. 300g–1). NPDWRs apply to public water systems (42 U.S.C. 300f(1)(A)). According to section 1401(1)(D) of the Act, NPDWRs include "criteria and procedures to assure a supply of drinking water which dependably complies with such maximum contaminant levels; including quality control and testing procedures * * *" In addition, section 1445(a) of the Act authorizes the Administrator to establish regulations for monitoring to assist in determining whether persons are acting in compliance with the requirements of the SDWA. EPA's promulgation of analytical methods is authorized under these sections of the SDWA as well as the general rulemaking authority in SDWA section 1450(a) (42 U.S.C. 300j–9(a)).

II. Regulatory Background

EPA has promulgated analytical methods for all currently regulated drinking water contaminants for which MCLs or monitoring requirements have been promulgated. In most cases, the Agency has promulgated regulations specifying (i.e., approving) the use of more than one analytical method for a particular contaminant, and laboratories may use any one of them for determining compliance with an MCL or monitoring requirement. After any regulation is published, EPA may amend the regulations to approve additional methods or modifications to existing approved methods, or withdraw approved methods that become obsolete.

In today's action, EPA is proposing to amend the regulations to approve the use of several new methods and modifications to existing methods that EPA believes are as good as or better than the current methods and procedures. EPA also wants to eliminate the confusion caused by the Agency's approval of different versions of the same analytical method that have resulted from separate regulatory actions over the years. Today's proposal would eliminate this unnecessary duplication and require laboratories to use the most recent EPA-approved version of a method for any given contaminant. Laboratory acceptance limits that are used for certification of laboratories, and detection limits that are used to adjust monitoring frequencies, are specified in previous regulations and are independent of the method used. Therefore the provisions of this rule would not affect laboratory certification criteria or monitoring frequencies for any contaminant.

EPA requests public comment on whether the Agency should approve the new or revised methods, as written. The Agency also requests comment on whether to withdraw the older methods or older versions of a method. In addition, the public is invited to suggest additional suitable methods or changes in the methods, as written, that EPA would consider approving in this rule or in a later rulemaking. The methods in this rule that are promulgated will be incorporated by reference into the Code of Federal Regulations.

III. Discussion of Proposed Rule

Each method listed below specifies the contaminant(s) for which the method applies. For any contaminant

for which a method applies, there may be an MCL, a treatment technique requirement, or a monitoring requirement only. The contaminants listed are exclusive, i.e., a method would not apply to regulated contaminants not specified.

A. New Methods

EPA would approve the use of the following methods not previously approved for drinking water compliance analyses. With the exception of EPA Method 552.1, these methods are being included as additional methods to those already approved.

(1) EPA Method 552.1, "Determination of Haloacetic Acids and Dalapon in Drinking Water by Ion Exchange Extraction and Gas Chromatography with Electron Capture Detection", would be approved for dalapon. As part of this method, a sample is passed through an anion exchange column and the eluant subjected to derivatization with acidic methanol. This method is much less cumbersome than EPA Method 515.1, and uses a less hazardous derivatization procedure. Data contained in the manual describing EPA Method 552.1 demonstrates that its accuracy, precision, and sensitivity are as good or better than Method 515.1 for the determination of dalapon in drinking water.

(2) EPA Method 555, "Determination of Chlorinated Acids in Water by High Performance Liquid Chromatography (HPLC) with a Photodiode Array Ultraviolet Detector", would be approved for 2,4–D, 2,4,5–TP (silvex), dicamba, dinoseb, picloram, and pentachlorophenol. As part of this method, the sample pH is adjusted to 12 to hydrolyze the chlorinated esters. The sample is then acidified and pumped through a high performance liquid chromatograph cartridge, which is then backflushed into a chromatograph for separation and analysis of the acids. Method detection limits (MDLs) for EPA Method 555 are higher than the MDLs in EPA Methods 515.1 and 515.2 for these contaminants, but are still considerably lower than the MCLs.

(3) EPA Method 100.2, "Method for the Determination of Asbestos Structures over 10-μm in Length in Drinking Water" (EPA, 1993b), would be approved for asbestos. The currently approved method for asbestos is "Analytical Method for the Determination of Asbestos Fibers in Water" (EPA, 1983b), which was recently assigned as EPA Method 100.1. Method 100.2 is more efficient and less expensive than Method 100.1, because it uses a faster-dissolving filter and because it does not use chloroform, which is a hazardous waste when discarded, to dissolve the filter. EPA solicits comment on whether Method 100.1 should be withdrawn, if Method 100.2 is approved for the determination of asbestos.

(4) Great Lakes Instruments (GLI) Method 2 would be approved for turbidity. This method uses the same chemistry principles used by the currently approved turbidity methods 214A in the 16th edition of *Standard Methods* (APHA, 1985) and EPA Method 180.1. The GLI Method 2, however, uses a turbidimeter that has a different operating function and physical design than the other two methods.

(5) Syringaldazine (FACTS) Method (Method 4500–Cl H) in *Standard Methods* (APHA, 1992) would be approved for free chlorine residual.

(6) Low-Level Amperometric Titration Method (Method 4500–Cl E) and Iodometric Electrode Technique (Method 4500–Cl I) in *Standard Methods* (1992) would be approved for total chlorine residual.

(7) Amperometric Titration Method II (Method 4500–ClO_2 E) in *Standard Methods* (APHA, 1992) would be approved for chlorine dioxide.

(8) Indigo Colorimetric Method (Method 4500–O_3 B) in *Standard Methods* (APHA, 1992) would be approved for ozone. This method is identical to, and would replace, the currently approved method because the citation (APHA, 1992) is more accessible to water laboratories than the current citation (APHA, 1989).

(9) Glyphosate Method 6651 in *Standard Methods* (APHA, 1992) would be approved for glyphosate.

(10) EPA Method 551, "Determination of Chlorination Disinfection Byproducts and Chlorinated Solvents in Drinking Water by Liquid-Liquid Extraction and Gas Chromatography with Electron Capture Detection", would be approved for total trihalomethanes (TTHMs), bromoform, chloroform, bromodichloromethane, chlorodibromomethane, carbon tetrachloride, trichloroethylene, tetrachloroethylene, 1,2-dibromoethane (EDB), 1,2-dibromo-3-chloropropane (DBCP), and 1,1,1-trichloroethane. This method uses capillary columns and an electron capture detector. If only trihalomethanes are to be measured, EPA would allow pentane to be used as the extracting solvent, which makes the method very similar to EPA Method 501.2, a packed column liquid-liquid extraction method currently approved for TTHMs. EPA believes most laboratories wishing to use liquid-liquid extraction to measure THMs will prefer Method 551 to Method 501.2.

EPA Method 551 is described in the manual, "Methods for the Determination of Organic Compounds in Drinking Water—Supplement I," EPA/600/4–90/020, July 1990. EPA Methods 552.1 and 555 are described in the manual, "Methods for the Determination of Organic Compounds in Drinking Water—Supplement II," EPA/600/R–92/129, August 1992. These documents are available from the National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, Virginia 22161. The NTIS toll-free number is 800–553–6847 and the NTIS order numbers are PB91–146027 and PB92–207703, respectively. The method description for GLI Method 2 is available from Great Lakes Instruments, Inc., 8855 North 55th Street, Milwaukee, Wisconsin 53223, phone (414) 355–3601. EPA Method 100.2 for asbestos analysis is available from USEPA/TSD, Cincinnati, OH 45268. All of these documents are available for review at EPA's Water Docket.

EPA solicits comments on these proposed changes.

B. Expanded Scope for Already Approved Methods

EPA would approve the use of the following already approved methods for the analysis of additional regulated contaminants for drinking water compliance.

(1) EPA Method 200.8, already approved under § 141.23, § 141.89, and recommended under § 143.4 for the determination of several metals (aluminum, antimony, beryllium, copper, lead, nickel, silver, thallium), would also be approved for arsenic, barium, cadmium, chromium, and selenium under § 141.23, and recommended for copper, manganese and zinc under § 143.4. This method would be approved only for the measurement of the inorganic contaminants listed above, and not for other drinking water contaminants. Method 200.8 is an inductively-coupled plasma mass spectrometry procedure.

(2) EPA Method 200.9, already approved under § 141.23, § 141.89, and recommended under § 143.4 for several metals (aluminum, antimony, beryllium, copper, lead, nickel, silver, thallium), would also be approved for arsenic, cadmium, chromium, and selenium under § 141.23, and recommended for copper, iron, and manganese under § 143.4. This method would be approved only for the measurement of the inorganic contaminants listed above, and not for other drinking water

contaminants. Method 200.9 is an atomic absorption platform procedure.

(3) EPA Method 300.0, already approved under § 141.89 for orthophosphate and under § 141.23 for nitrite and nitrate, would also be approved for fluoride under § 141.23 and recommended for fluoride, sulfate and chloride under § 143.4. Method 300 is an ion chromatography method.

(4) Method 4110B in *Standard Methods* (APHA, 1992) and Method D4327–91 in ASTM (1993), already approved under § 141.23 for nitrate and nitrite and under § 141.89 for orthophosphate, would also be approved for fluoride under § 141.23 and recommended for chloride, fluoride, and sulfate under § 143.4. These methods would only be approved for the determination of the listed inorganic contaminants. These two methods are ion chromatography methods.

EPA has evaluated the performance of these five methods for the indicated contaminants and believes they are at least as good as currently approved methods. Performance data are included in the methods. Methods (1) and (2) above are published in the manual, "Methods for the Determination of Metals in Environmental Samples," EPA/600/4–91/010, June 1991. This manual is available from NTIS as publication number PB91–231498. EPA Method 300.0 is published in the manual, "Methods for the Determination of Inorganic Substances in Environmental Samples", EPA/600/R/93/100, August 1993. This manual is available from U.S. EPA/EMSL, Cincinnati, Ohio 45268. This rulemaking would not withdraw approval of other methods previously approved for monitoring arsenic, barium, cadmium, chloride, chromium, fluoride, selenium and sulfate, except as specified in Sections III D and E, below.

EPA solicits comments on these proposed changes.

C. Updated Methods

EPA would approve the following versions of already approved methods and withdraw approval of the indicated older versions.

(1) EPA Method 524.2, as described in EPA (1992a), would replace EPA Method 524.1 and the previous version of 524.2, as described in EPA (1991b). EPA 524.2 would be approved for analysis of synthetic volatile organic chemicals (VOCs) under § 141.24 (18 VOCs) and § 141.40 (21 VOCs) and for trihalomethanes under § 141.30. Approval of EPA Method 524.1 and all previous versions of 524.2 would be withdrawn for all chemicals.

(2) EPA Method 515.2 for analysis of pentachlorophenol, 2,4-D, 2,4,5-TP, dinoseb, dicamba, and picloram would replace EPA Method 515.1 under § 141.24(h)(12) and § 141.40(n)(11). Approval of EPA Method 515.1 would be withdrawn for all chemicals. In addition, an alternative reagent would be allowed to produce methyl esters for detection purposes. The alternative reagent is trimethylsilo-diazomethane, which is much less hazardous than the reagent currently specified in Method 515.2 (N-methyl-N-nitroso-p-toluene sulfonamide).

(3) EPA Method 548.1, "Determination of Endothall in Drinking Water by Ion Exchange Extraction, Acidic Methanol Methylation, Gas Chromatography/Mass Spectrometry", would be approved for endothall under § 141.24(h)(12). Approval for Method 548 would be withdrawn for all chemicals. Method 548.1 has a methylation procedure that is more efficient and economical for the determination of endothall than that used in EPA Method 548. In Method 548.1, endothall is extracted from water by passing the sample through an anion exchange sorbent, followed by derivatization with acidic methanol. A methyl ester of endothall is detected by either flame ionization or mass spectrometry.

(4) EPA Method 549.1 for analysis of diquat would replace EPA Method 549 under § 141.24(h)(12). Approval of EPA Method 549 would be withdrawn for all chemicals, because data in the preface to the methods manual (EPA, 1992a) demonstrates that this method is less reliable than is EPA 549.1 for the identification and measurement of diquat.

(5) EPA Method 525.2 for analysis of a number of organic compounds would replace EPA Method 525.1 under § 141.24(h)(12) and § 141.40(n)(11) for the same chemicals. Approval of EPA Method 525.1 would be withdrawn for all chemicals, because data in Method 525.2 (EPA, 1993c) demonstrates that this method is more reliable than is Method 525.1 for the identification and measurement of organic compounds.

The first four updates above are published in the manual, "Methods for the Determination of Organic Compounds in Drinking Water—Supplement II", EPA/600/R–92/129, August 1992. This manual is available from NTIS as publication number PB92–207703 and is also available for review in the Water Docket. The fifth update, EPA Method 525.2, is available from EPA, EMSL, Cincinnati, OH 45268.

D. Updates to Methods by Reference to Most Recent Methods Manual

Under the rule, EPA would approve the following most recent methods manuals and editions to *Standard Methods* and ASTM and withdraw approval of previous editions. Compared to the already approved earlier version of a method, the method updates in this section are not significant, as reflected by the continued use of the same EPA Method number for chemical contaminants. These methods manuals and editions of *Standard Methods* and ASTM are currently cited in § 141.21, § 141.22(a), § 141.23, § 141.24, § 141.40, § 141.74, § 141.89, and § 143.4.

(1) EPA Methods 200.7, 200.8, 200.9, and 245.1 would require use of the manual, "Methods for the Determination of Metals in Environmental Samples," EPA/600/4–91/010, June 1991. This manual is available from NTIS as publication number PB91–231498.

(2) EPA Methods 502.2, 504, 505, 507, 508, 508A, and 531.1 would require use of the manual, "Methods for the Determination of Organic Compounds in Drinking Water", EPA/600/4–88/039, July 1991.

This manual is available from NTIS as publication number PB91–231480.

(3) EPA Methods 506, 547, 550, 550.1 and 551 would require use of the manual, "Methods for the Determination of Organic Compounds in Drinking Water—Supplement I", EPA/600/4–90/020, July 1990. This manual is available from NTIS as publication number PB91–146027.

(4) EPA Methods 515.2, 524.2, 548.1, 549.1, 552.1, and 555 would require the use of the manual, "Methods for the Determination of Organic Compounds in Drinking Water, Supplement II", EPA/600/R–92/129, August 1992. This manual (EPA, 1992a) is available from NTIS as publication number PB92–207703.

(5) EPA Methods 180.1 (turbidity), 300.0 (ion chromatography), 335.4 (total cyanide), 353.2 (nitrate and nitrite) and 375.2 (sulfate) would require the use of the manual, "Methods for the Determination of Inorganic Substances in Environmental Samples", EPA/600/R/93/100, August 1993. This manual is available from EPA/EMSL, Cincinnati, OH 45268.

(6) Methods in § 141.23, § 141.40, § 141.89, and § 143.4 that cite *Standard Methods* editions previous to the 18th edition would be withdrawn and replaced by the identical methods in the 18th edition of *Standard Methods* (APHA, 1992). Methods in § 141.23,

§ 141.40, §141.89, and § 143.4 that cite ASTM editions previous to the 1993 edition are withdrawn and replaced by the identical methods in the 1993 edition (ASTM, 1993). The 18th edition of *Standard Methods* (APHA, 1992) and ASTM (1993) contain no technical changes to the original methods. The only changes are typographical, grammatical, or editorial in nature.

(7) The following methods associated with the Total Coliform Rule and the Surface Water Treatment Requirements, as set forth in the 14th and 16th editions of *Standard Methods*, would be withdrawn and replaced with the 18th edition of *Standard Methods* (APHA, 1992):

(a) Multiple-Tube Fermentation (MTF) Technique, Membrane Filter (MF) Technique, and Presence-Absence (P-A) Coliform Test for total coliforms (§ 141.21 and § 141.74). The 18th edition of *Standard Methods* (APHA, 1992) designates these methods as 9221A,B,C (for MTF); 9222A,B,C (for MF); 9221D (for P-A Test);

(b) Fecal Coliform Test (EC medium) (§ 141.21 and § 141.74) and Fecal Coliform Direct Test (A–1 broth) (§ 141.74). The 18th edition of *Standard Methods* (APHA, 1992) designates these methods as 9221E;

(c) Heterotrophic Plate Count for heterotrophic bacteria (§ 141.74). The 18th edition of *Standard Methods* (APHA, 1992) designates this method as 9215B;

(d) Nephelometric method for turbidity (§ 141.22(a) and § 141.74). The 18th edition of *Standard Methods* (APHA, 1992) designates this method as 2130B. (Thus, the rule would allow laboratories to use this method, the new GLI method described in Section A, and two updated methods—EPA Method 180.1 and *Standard Methods* 2130B.);

(e) Amperometric Titration Method, DPD Ferrous Titrimetric Method, and DPD Colorimetric Method for free and total chlorine residual (§ 141.74). The 18th edition of *Standard Methods* (APHA, 1992) designates these methods as 4500–Cl D,F,G;

(f) Amperometric Titration Method and DPD Method for chlorine dioxide (§ 141.74). The 18th edition of *Standard Methods* (APHA, 1992) designates these methods as 4500–ClO_2 C and D;

(g) Temperature (§ 141.74). The 18th edition of *Standard Methods* (APHA, 1992) designates this method as number 2550; and

(h) pH (§ 141.74). The 18th edition of *Standard Methods* (APHA, 1992) designates this method as 4500–H^+.

The 18th edition of *Standard Methods* contains no, or only minor, technical changes to the original methods. Most of the changes are typographical, grammatical, or editorial in nature.

EPA solicits comments on the updates to the EPA manuals, as well as updates to more recent ASTM and *Standard Methods* editions.

E. Other Methods To Be Withdrawn

In addition to withdrawing approval for Methods indicated in Section C above, EPA would also withdraw approval for the following methods:

(1) EPA Methods 502.1, 503.1, and 524.1. These three methods are approved for the analysis of volatile organic compounds. These methods use packed column technology, which is becoming obsolete and has less resolving power than capillary column technology (EPA, 1992b). Capillary columns are required in most modern gas chromatographic methods that have been developed for drinking water compliance monitoring. Over the next few years, EPA believes most, if not all, laboratories will replace their packed column gas chromatographs with capillary column instruments, because they offer greater flexibility in the number of analytes that can be measured.

Method 502.2 was developed by EPA to replace Methods 502.1 and 503.1; Method 524.2 was developed to replace Method 524.1. Both methods use capillary columns, and are currently approved for compliance monitoring of the same contaminants as are the three packed column methods. EPA proposes to withdraw approval of EPA Methods 502.1, 503.1 and 524.1 for compliance monitoring. EPA solicits comment on whether the withdrawal of the packed column methods and the replacement with capillary column methods will result in any increased testing costs or any technical difficulty.

(2) EPA Methods 501.1 and 501.2. These packed column methods are approved for the analysis of TTHMs. EPA would withdraw approval of these two methods for the same reasons presented in paragraph (1) above. Method 501.2, which uses a liquid-liquid extraction technique, and Method 501.1, which uses a purge-and-trap sparging technique, have not been updated since 1979. Both methods are limited to measurement of TTHMs. The Agency has approved two purge-and-trap, capillary column methods (EPA Methods 502.2 and 524.2) in 58 FR 41344 (August 3, 1993) that can replace Method 501.1. And today EPA is proposing a capillary column, liquid-liquid extraction method (551) for TTHMs, which could replace Method 501.2.

As stated in 58 FR 41344 (August 3, 1993), EPA encourages the use of capillary column methods over packed column methods and intends to discontinue technical support for packed column methodology for the analysis of TTHMs and other VOCs. The Agency does not believe that withdrawal of approval will adversely affect laboratories for the reasons given in paragraph (1) above.

(3) EPA Method 515.1 is a water-organic solvent extraction method for the analysis of 2,4-D, 2,4,5-TP (silvex), dicamba, dinoseb, picloram, pentachlorophenol, and dalapon. EPA specifically invites public comment on whether to withdraw this method or retain it. This method has the advantage of being able to analyze dalapon, whereas performance data on dalapon are not available for the updated version, EPA Method 515.2. Thus, if the Agency were to withdraw EPA Method 515.1, laboratories would need to use two methods (EPA Methods 515.2 and 552.1) for analysis of the listed contaminants above, rather than a single method. The disadvantages of EPA Method 515.1 are that (1) it requires a hazardous chemical, diazomethane, to derivatize the pesticide, and (2) it requires large volumes of an organic extraction solvent that must be disposed of as waste. Methods 515.2 and 552.1 use only small volumes of organic solvents, and Method 552.1 does not use diazomethane.

(4) Leuco Crystal Violet Method, as described in Method 408F of *Standard Methods* (APHA, 1985), for the determination of residual disinfectant concentration for free chlorine and combined chlorine (chloramines) in § 141.74. This method has been deleted from the 18th edition of *Standard Methods* because of its relative difficulty.

(5) EPA Methods 206.3 and 206.4 for the analysis of arsenic. Both methods are incomplete and refer to Method 404B in the 14th edition of *Standard Methods* (APHA, 1975).

(6) EPA Method 204.2 for the analysis of antimony. This method, which uses a conventional graphite furnace, would be withdrawn because it is inadequate and incomplete. Also, the sample preparation procedure in the method can lead to erroneous results. The Agency would continue to approve the conventional graphite furnace method described in the 18th edition of *Standard Methods* (APHA, 1992) (Method 3113B), as well as several other methods for antimony.

(7) EPA Methods 272.1 and 272.2, as described in EPA (1983a). These two atomic absorption methods, currently

recommended for the analysis of silver under § 143.4, would be withdrawn because they are potentially unsafe and inadequate compared to other recommended methods. These methods suggest the use of cyanogen iodide, which produces a hazardous waste, and the sample preparation instructions can lead to erroneous results. For laboratories wishing to use conventional atomic absorption procedures to measure silver, EPA recommends methods described in *Standard Methods* (APHA, 1992) and in *Techniques of Water Resources Investigations of the U.S. Geological Survey* (USGS, 1989).

(8) The following methods would be withdrawn for the determination of secondary contaminants under § 143.4: EPA Methods 202.1 and 202.2 (aluminum), 236.1 (iron), 243.1 (manganese), 375.4 (sulfate), and 289.1 (zinc). The following methods would be withdrawn for the determination of primary contaminants under § 141.23: EPA Methods 208.1 (barium); 210.2 (beryllium); 213.2 (cadmium); 218.2 (chromium); 249.1 and 249.2 (nickel); 270.2 (selenium); 279.2 (thallium); 335.1 and 335.2 (cyanide); 340.1, 340.2, 340.3 (fluoride); 353.3 (nitrate and nitrite); and 353.1 (nitrate). These methods would be withdrawn because they are outdated and incomplete. To allow time for laboratories to adjust to these changes, EPA proposes that the effective date to withdraw approval of the methods in this paragraph (as well as those in paragraphs 1 and 2) would be July 1, 1995. The Agency solicits comment on whether this time period is sufficient.

F. Miscellaneous

(1) In response to public requests, EPA would rewrite 40 CFR 141.23(k), 40 CFR 141.24(e), 40 CFR 141.24(h)(12), 40 CFR 141.40(n)(11), and 40 CFR 143.4(b) to present methods in tabular form for greater clarity. These sections have become cluttered over time as the Agency has approved analytical methods for the analysis of an increasing number of contaminants.

(2) The Agency would withdraw § 141.30, Appendix C, from the Code of Federal Regulations (CFR). This appendix, "Analysis of Trihalomethanes", includes the protocols for monitoring trihalomethanes, as required by 40 CFR 141.30. Currently, EPA incorporates by reference the documents that describe approved analytical methods. Appendix C was published in the Code of Federal Regulations before EPA began incorporating documents by reference. The Agency now has published documents containing methods for the determination of trihalomethanes, entitled, "The Analysis of Trihalomethane in Drinking Waters by the Purge and Trap Method", Method 501.1, and "The Analysis of Trihalomethanes in Drinking Water by Liquid/Liquid Extraction", Method 501.2. The Agency would cite these publications as references for trihalomethane analysis rather than include the entire protocol in the CFR. This change would make 40 CFR Part 141 less unwieldy, but would not revise or withdraw the two methods. (If Methods 501.1 and 501.2 are withdrawn as proposed in Section E, Appendix C would be automatically withdrawn.)

(3) Serious concerns have been raised about the use of mercuric chloride as a biocide in EPA Methods 507, 508, and 515.1. These concerns relate to the environmental hazards and costs associated with disposal of mercuric compounds. Since drinking water usually exhibits limited biological activity, EPA is proposing that the requirement to preserve samples with mercuric chloride be withdrawn. To minimize the possibility of occasional false-negative results, the Agency would still require the use of mercuric chloride in any drinking water sample that might be expected to exhibit biological degradation of the target pesticides. The Agency requests public comment on this issue, especially on how a laboratory or system might determine whether biological activity is likely to degrade a pesticide in a sample.

(4) EPA Method 180.1, which is currently approved for turbidity under Section 141.22(a), would also be approved under Section 141.74(a)(4).

(5) The Surface Water Treatment Rule (SWTR) (54 FR 27486; June 29, 1989) requires surface water systems serving more than 3,300 people to monitor disinfectant residual (free or total) continuously (§ 141.74(b)). The SWTR specified methods that use grab sampling techniques (§ 141.74(a)(5)), but inadvertently omitted specifications for continuous monitoring. EPA is proposing to correct this omission by allowing an approved grab sampling technique to be adapted and used for continuous monitoring when the chemistry, accuracy, and precision of the disinfectant residual measurement are the same.

EPA has promulgated similar requirements for conducting turbidity monitoring (§ 141.74(b)(2)). In the SWTR, EPA noted that instruments used for continuous monitoring must be regularly calibrated with a grab sample measurement. Instruments used for continuous monitoring of disinfectant residuals must be calibrated with a grab sample measurement at least every five days, or with a protocol approved by the State.

(6) EPA has added a section to EPA manual, "Methods for the Determination of Organic Compounds in Drinking Water—Supplement II", EPA/600/R-92/129, August 1992, to stipulate procedures for complying with waste disposal requirements. This new section will be incorporated into the next printing of this manual, and an insert has been placed in current supplies of the manual. Section 15.1 of this addendum reads as follows:

"15.1 It is the laboratory's responsibility to comply with all federal, State, and local regulations governing waste management, particularly the hazardous waste identification rules and land disposal restrictions, and to protect the air, water, and land by minimizing and controlling all release from fume hoods and bench operations. Compliance is also required with any sewage discharge permits and regulations. For further information on waste management, consult "The Waste Management Manual for Laboratory Personnel," also available from the American Chemical Society, Department of Government Relations and Science Policy, 1155 16th Street, NW, Washington, DC 20036."

(7) EPA Method 505, which uses an electron-capture detector, and EPA Method 507, which uses a nitrogen-phosphorous detector, are currently approved for the measurement of alachlor, atrazine and simazine. In these methods, EPA omitted the option of using either detector with each method. Today, EPA is proposing to allow this interchange of detectors, provided the requirements specified below and in the methods are met. This option is only proposed for the analysis of alachlor, atrazine, and simazine.

EPA is proposing to allow use of a nitrogen-phosphorous detector with Method 505, provided the detection limits specified at § 141.24(h)(18) are achieved, and provided the calibration and quantitation procedures, which are specified in Method 507, are followed. EPA is proposing to allow use of an electron-capture detector with Method 507, provided the detection limits specified at § 141.24(h)(18) are achieved, and provided the calibration and quantitation procedures, which are specified in EPA Method 508, are followed. The Agency solicits comment on allowing this interchange of detectors for other chemicals that are in the analytical scope of Methods 505, 507, or 508, and which respond to both detectors.

(8) EPA provides the following guidance to help laboratories correctly preserve samples for compliance with the TTHM monitoring requirements under 40 CFR 141.30. The Agency believes that this guidance is warranted because many preservation procedures are available, depending on the method, and because laboratories may wish to measure VOCs and TTHMs in a single analysis.

Laboratories must carefully follow the preservation procedure described in each method, especially the order in which reagents are added to the sample. The methods allow analysts to choose among four reagents (ammonium chloride, ascorbic acid, sodium sulfite, or sodium thiosulfate) to dechlorinate a water sample. These reagents remain available for use, but with one exception, EPA strongly recommends the use of sodium thiosulfate as the dechlorination reagent, because the Agency has more performance data on this chemical demonstrating its effectiveness than the Agency has for other dechlorination reagents. The exception is that ascorbic acid needs to be used when vinyl chloride and other gases are measured with a mass spectrometer, because sodium thiosulfate generates a gas that interferes with the analysis. The Agency cautions that samples dechlorinated with ascorbic acid must be acidified immediately, as directed in the method.

(9) EPA is proposing to update the methods for total coliforms from the 16th edition to the 18th edition of *Standard Methods* (see Section D, above). The Agency notes that the 16th edition recommends a maximum sample holding time of 30 hours for total coliforms (906B), while the 18th edition recommends 24 hours (9060B). The Agency requests comment on whether the Agency should decrease the holding time to 24 hours.

(10) EPA would allow laboratories using EPA Method 502.2 to use alternative sorbents to trap volatile organic compounds, provided they meet all quality assurance criteria specified in the method. This same option is already included in EPA Method 524.2 (EPA, 1992a).

(11) EPA would allow laboratories to use a solid phase (disk or cartridge) extraction procedure for the analysis of alachlor, atrazine, butachlor, metolachlor, metribuzin, and simazine with EPA Method 507; and for the analysis of aldrin, seven Aroclors, chlordane, dieldrin, endrin, heptachlor, heptachlor epoxide, hexachlorobenzene, lindane, methoxychlor, propachlor, and toxaphene with EPA Method 508. This modification would require laboratories to use the solid phase preparation and extraction procedures described in EPA Method 525.2. The Agency regards this proposed modification as tentative and will base a final decision on whether to approve on public comment and additional EPA performance data.

(12) EPA is clarifying the use of detectors with EPA Method 502.2. Method 502.2 requires the use of a photoionization detector to measure volatile organic compounds that cannot be measured with an electrolytic conductivity detector. If total trihalomethanes alone are to be measured, the photoionization detector is not needed.

(13) Many of the approved methods for drinking water analyses can also be used to measure non-regulated contaminants. Although EPA only approves methods for contaminants regulated under the Safe Drinking Water Act, the Agency encourages laboratories to use these methods for non-regulated contaminants if the method description specifically includes these contaminants.

IV. Regulation Assessment Requirements

A. Executive Order 12866

Under Executive Order 12866 (58 FR 51735 (October 4, 1993)), the Agency must determine whether the regulatory action is "significant" and therefore subject to OMB review and the requirements of the Executive Order. The Order defines "significant regulatory action" as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

Pursuant to the terms of Executive Order 12866, OMB has reviewed this action. Changes made in response to OMB suggestions or recommendations will be documented in the public record.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act requires EPA to explicitly consider the effect of proposed regulations on small entities. By policy, EPA has decided to consider regulatory alternatives if there is any economic impact on any number of small entities.

The proposed rule is consistent with the objectives of the Regulatory Flexibility Act because it will not have any economic impact on any small entities. The proposed rule specifies analytical methods that laboratories must use for testing regulated drinking water contaminants. Monitoring requirements were promulgated in earlier notices. The rule would require laboratories to use the most recent version of a method and imposes no additional requirements. It is actually expected to reduce cost of analysis by allowing more contaminants to be analyzed simultaneously by using a single method. Therefore, the Agency believes that this notice would have no adverse effect on any number of small entities.

C. Paperwork Reduction Act

The rule contains no requests for information and consequently is not subject to the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

D. Science Advisory Board, National Drinking Water Advisory Council, and Secretary of Health and Human Services

In accordance with Section 1412 (d) and (e) of the SDWA, the Agency consulted with the Science Advisory Board, the National Drinking Water Advisory Council, and the Secretary of Health and Human Services and took their comments into account before proposing these regulations.

List of Subjects

40 CFR Part 141

Environmental protection, Administrative practice and procedure. Analytical methods, Chemicals, Incorporation by reference, Intergovernmental relations, National primary drinking water regulations, Water supply.

40 CFR Part 143

Chemicals, Water supply.

V. References

APHA. American Public Health Association et al. 1985. *Standard Methods for the Examination of Water and Wastewater*, 16th edition. American Public Health Association; 1015 Fifteenth Street, NW; Washington, DC 20005.

APHA. American Public Health Association et al. 1989. *Standard Methods for the Examination of Water and Wastewater*, 17th edition. American Public Health Association; 1015 Fifteenth Street, NW; Washington, DC 20005.

APHA. American Public Health Association et al. 1992. *Standard Methods for the Examination of Water and Wastewater*, 18th edition. American Public Health Association; 1015 Fifteenth Street, NW; Washington, DC 20005.

ASTM. 1993. *Annual Book of ASTM Methods*, Vol. 11.01 and 11.02. American Society for Testing and Materials, 1916 Race Street, Philadelphia, PA 19103.

EPA. 1983a. Methods for Chemical Analysis of Water and Wastes. Environmental Monitoring Systems Laboratory, Cincinnati, OH 45268, EPA–600/4–79–020, March 1983.

EPA. 1983b. Method 100.1, "Analytical Method for the Determination of Asbestos Fibers in Water", NTIS PB83–260471.

EPA. 1990a. "Methods for the Determination of Organic Compounds in Drinking Water—Supplement I," Environmental Monitoring Systems Laboratory, Cincinnati, OH 45268, EPA/600/4–90/020, July 1990.

EPA. 1990b. Method 1613, "Tetra-through-Octa-Chlorinated Dioxins and Furans by Isotope-Dilution HRGC/HRMS, Revision A", Office of Water Regulations and Standards, Industrial Technology Division, April 1990.

EPA. 1991a. "Methods for the Determination of Metals in Environmental Samples," Environmental Monitoring Systems Laboratory, Cincinnati, OH 45268, EPA/600/4–91/010, June 1991.

EPA. 1991b. "Methods for the Determination of Organic Compounds in Drinking Water," Environmental Monitoring Systems Laboratory, Cincinnati, OH 45268, EPA/600/4–88/039, December 1988, revised July 1991.

EPA. 1992a. "Methods for the Determination of Organic Compounds in Drinking Water—Supplement II," Environmental Monitoring Systems Laboratory, Cincinnati, OH 45268, EPA/600/R–92/129, August 1992.

EPA. 1992b. Memorandum from William L. Budde to Paul Berger, dated September 22, 1992. U.S. Environmental Protection Agency.

EPA. 1993a. "Methods for the Determination of Inorganic Substances in Environmental Samples", EPA/600/R/93/100, August 1993. Environmental Monitoring Systems Laboratory, Cincinnati, OH 45268.

EPA. 1993b. Method 100.2. "Method for the Determination of Asbestos Structures over 10μm in Length in Drinking Water", Draft EPA document, February 1993. Office of Ground Water and Drinking Water (TSD), Cincinnati, OH 45268.

EPA. 1993c. Method 525.2. "Determination of Organic Compounds in Drinking Water by Liquid-Solid Extraction in Capillary Column Gas Chromatography/Mass Spectrometry", Environmental Monitoring Systems Laboratory, Cincinnati, OH. Draft, October 1993.

USGS. U.S. Geological Survey. 1989. *Techniques of Water Resources Investigations of the U.S. Geological Survey*, Book 5, Chapter A–1, 3rd ed. Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

Dated: December 2, 1993.

Carol M. Browner,

Administrator.

For the reasons set out in the preamble, parts 141 and 143 of title 40, Code of Federal Regulations are proposed to be amended as set forth below.

PART 141—NATIONAL PRIMARY DRINKING WATER REGULATIONS

1. The authority citation for part 141 continues to read as follows:

Authority: 42 U.S.C. 300f, 300g–1, 300g–2 300g–3, 300g–4, 300g–5, 300g–6, 300j–4, 300j–9.

2. Section 141.21 is amended by revising paragraph (f)(3), removing and reserving (f)(4), revising the next to last sentence of (f)(5), revising the second sentence of (f)(6)(i), and revising the second sentence of (f)(6)(ii) to read as follows:

§ 141.21 Coliform sampling.

* * * * *

(f) * * *

(3) Public water systems must conduct total coliform analyses in accordance with one of the following analytical methods:

Organism	Method	Citation [1]
Total Coliforms.	Total Coliform Fermentation Technique.	9221A, B
	Total Coliform Membrane Filter Technique.	9222A, B, C
	Presence-Absence (P-A) Coliform Test.	9221D
	ONPG-MUG Test.	9223

[1] 18th edition of *Standard Methods for the Examination of Water and Wastewater*, 1992, American Public Health Association, American Water Works Association, Water Environment Federation.

(4) (Reserved)

(5) * * * The preparation of EC medium is described in the 18th edition of *Standard Methods for the Examination of Water and Wastewater*, 1992, American Public Health Association, American Water Works Association, Water Environment Federation; Method 9221E—p. 9–52, paragraph 1a. * * *

(6) * * *

(i) * * * EC medium is described in the 18th edition of *Standard Methods for the Examination of Water and Wastewater*, 1992, American Public Health Association, American Water Works Association, Water Environment Federation; Method 9221E—p. 9–52, paragraph 1a. * * *

(ii) * * * Nutrient Agar is described in the 18th edition of *Standard Methods for the Examination of Water and Wastewater*, 1992, American Public Health Association, American Water Works Association, Water Environment Federation; p. 9–47 to 9–48. * * *

* * * * *

3. Section 141.22(a) is amended by removing the next to last sentence and revising the last sentence to read as follows:

§ 141.22 Turbidity sampling and analytical requirements.

* * * * *

(a) * * * Turbidity measurements shall be made as directed in § 141.74(a)(4).

* * * * *

4. Section 141.23 is amended by removing and reserving paragraphs (k)(2) through (3) and (q), and revising paragraph (k)(1) to read as follows:

§ 141.23 Inorganic chemical sampling and analytical requirements.

* * * * *

(k) * * *

(1) Analysis shall be conducted in accordance with the methods in the following Table, or their equivalent as determined by the Administrator:

Contaminant	Methodology	EPA	ASTM[3]	SM[4]	USGS[5]	Other
Antimony[6] ..	ICP-Mass Spectrometry	[2]200.8				
	Hydride-Atomic Absorption[10]		D–3697–87.			
	Atomic Absorption; Platform	[2]200.9				
	Atomic Absorption; Furnace			3113B		
Arsenic[6]	Inductively Coupled Plasma	[2]200.7		3120B		
	ICP-Mass Spectrometry	[2]200.8				
	Atomic Absorption; Platform	[2]200.9				
	Atomic Absorption; Furnace	[11]206.2	D–2972–88C	3113B		
	Hydride Atomic Absorption[10]		D–2972–88B	3114B		
Asbestos	Transmission Electron Microscopy	[13]100.1				
	Transmission Electron Microscopy	[14]100.2				
Barium[6]	Inductively Coupled Plasma	[2]200.7		3120B		
	ICP-Mass Spectrometry	[2]200.8				
	Atomic Absorption; Direct			3111D		
	Atomic Absorption; Furnace	[1]208.2		3113B		
Beryllium[6] ..	Inductively Coupled Plasma	[2]200.7		3120B		
	ICP-Mass Spectrometry	[2]200.8				
	Atomic Absorption; Platform	[2]200.9				
	Atomic Absorption; Furnace		D–3645–84B	3113B		
Cadmium[6] .	Inductively Coupled Plasma	[2]200.7				
	ICP-Mass Spectrometry	[2]200.8				
	Atomic Absorption; Platform	[2]200.9				
	Atomic Absorption; Furnace			3113B		
Chromium[6]	Inductively Coupled Plasma	[2]200.7		3120B		
	ICP-Mass Spectrometry	[2]200.8				
	Atomic Absorption; Platform	[2]200.9				
	Atomic Absorption; Furnace			3113B		
Cyanide	Amenable, Spectrophotometric		D2036–91B	4500CN–G		
	Manual Distillation followed by Spectrophotometric.			4500–CN–C[16,18]		
	Manual		D2036–91A	4500–CN–E	I–3300–85.	
	Semi-automated	[9]335.4				
	Selective Electrode		D2036–91A	4500CN–F		
Fluoride	Ion Chromatography	[9]300.0	D4327–91	4110B		
	Manual Distill.; Color. SPADNS			4500F–B,D		
	Manual Electrode		D1179–88B	4500F–C		
	Automated Electrode				380–75WE[20].	
	Automated Alizarin			4500F–E	129–71W[19].	
Mercury	Manual, Cold Vapor[10]	[1]245.1	D3223–91	3112B		
	Automated, Cold Vapor[10]	[1]245.2				
Nickel[6]	Inductively Coupled Plasma	[2]200.7		3120B		
	ICP-Mass Spectrometry	[2]200.8				
	Atomic Absorption; Platform	[2]200.9				
	Atomic Absorption; Direct			3111B		
	Atomic Absorption; Furnace			3113B		
Nitrate	Ion Chromatography	[9]300.0	D4327–91	4110B		B–1011[8]
	Automated Cadmium Reduction	[9]353.2	D3867–90A	4500–NO_3–F		
	Ion Selective Electrode			4500–NO_3–D		WeWWG/5880[7]
	Manual Cadmium Reduction		D3867–90B	4500–NO_3–E		
Nitrite	Ion Chromatography	[9]300.0	D4327–91	4110B	B–1011[8]	
	Automated Cadmium Reduction	[9]353.2	D3867–90A	4500–NO_3–F		
	Manual Cadmium Reduction		D3867–90B	4500–NO_3–E		
	Spectrophotometric	[1]354.1				
Selenium[6] ..	Hydride-Atomic Absorption[10]		D3859–88A	3114B		
	ICP-Mass Spectrometry	[2]200.8				
	Atomic Absorption; Platform	[2]200.9				
	Atomic Absorption; Furnace[11]		D3859–88B	3113B		
Thallium[6] ...	ICP-Mass Spectrometry	[2]200.8				
	Atomic Absorption; Platform	[2]200.9				
	Atomic Absorption; Furnace			3113B		

[1] "Methods for Chemical Analysis of Water and Wastes," EPA–600/4–79–020, March 1983. Available at NTIS, publication order number PB84–128677.

[2] "Methods for the Determination of Metals in Environmental Samples." EPA–600/4–91–010. Available at NTIS, PB 91–231498, June 1991.

[3] *Annual Book of ASTM Standards*, Vols. 11.01 and 11.02, 1993, American Society for Testing and Materials, 1916 Race Street, Philadelphia, PA 19103.

[4] 18th edition of *Standard Methods for the Examination of Water and Wastewater*, 1992, American Public Health Association, American Water Works Association, Water Environment Federation.

[5] *Techniques of Water Resources Investigations of the U.S. Geological Survey*, Book 5, Chapter A–1, Third Edition, 1989. Available at Superintendent of Documents, U.S. Government Printing Office, Washington, D.C 20402.

[6] Samples may not be filtered. Samples that contain less than 1 NTU (nephelometric turbidity unit) and are properly preserved (concentrated nitric acid to pH <2) may be analyzed directly (without digestion) for total metals; otherwise, digestion is required. Turbidity must be measured on the preserved samples just prior to the initiation of metal analysis. When digestion is required, the total recoverable technique as defined in the method must be used.

[7] "Orion Guide to Water and Wastewater Analysis." Form WeWWG/5880, p. 5, 1985. Orion Research, Inc., Cambridge, MA.

[8] "Waters Test Method for Determination of Nitrite/Nitrate in Water Using Single Column Ion Chromatography, Method B–1011, Millipore Corporation, Waters Chromatography Division, 34 Maple Street, Milford, MA 01757.

[9] "Methods for the Determination of Inorganic Substances in Environmental Samples", EPA/600/R/93/100, August 1993. Environmental Monitoring Systems Laboratory, Cincinnati, OH 45268.

[10] For the gaseous hydride determinations of antimony, arsenic, and selenium and for the determination of mercury by the cold vapor techniques, the proper digestion technique as defined in the method must be followed to ensure the element is in the proper state for analyses.

[11] Add 2 ml of 30% hydrogen peroxide and an appropriate concentration of matrix modifier nickel nitrate to samples.

[12] Reserved.

[13] "Method 100.1 Analytical Method For Determination of Asbestos Fibers in Water," EPA–600/4–83–043, September 1983, U.S. EPA Environmental Research Laboratory, Athens, GA 30613. Available at NTIS, PB 83–260471.

[14] "Method 100.2 Method for the Determination of Asbestos Structure over 10μm in Length in Drinking Water", (1993), Technical Support Division, Cincinnati, Ohio 45268.

[15] Direct automated UV digestion is not permitted.

[16] The distillation procedure in EPA Method 335.2 should not be used.

[17] After the manual distillation is completed, the manifold in EPA Method 335.3 (cyanide) is simplified by connecting the re-sample line directly to the sampler. When using the manifold in EPA Method 335.3, the pH 6.2 buffer should be replaced with the pH 7.6 buffer in Method 335.2.

[18] EPA Methods 335.2 and 335.3 require the sodium hydroxide absorber solution final concentration be adjusted to 0.25 N before colorimetric analysis.

[19] "Fluoride in Water and Wastewater. Industrial Method No. 129–71 W." Technicon Industrial Systems. Tarrytown, NY 10591 December 1972.

[20] "Fluoride in Water and Wastewater," Method No. 380–75WE. Technicon Industrial Systems. Tarrytown, NY 10591, February 1976.

* * * * *

5. Section 141.24 is amended by removing and reserving paragraphs (f)(16), (g)(10), and (h)(12), and by revising paragraphs (e), (h)(13) introductory text and paragraph (h)(13)(i) to read as follows:

§ 141.24 Organic chemicals other than total trihalomethanes, sampling and analytical requirements.

* * * * *

(e) Analyses for the contaminants in this section shall be conducted using the following EPA methods or their equivalent as approved by EPA. These methods are contained in *Methods for the Determination of Organic Compounds in Drinking Water*, EPA/600/4–88/039, December 1988, Revised, July 1991; in *Methods for the Determination of Organic Compounds in Drinking Water*—Supplement I, EPA/600/4–90/020, July 1990; and in *Methods for the Determination of Organic Compounds in Drinking Water*—Supplement II, Environmental Monitoring Systems Laboratory, Cincinnati, OH 45268, EPA/600/R–92/129, August 1992. These documents are available from the National Technical Information Service, NTIS PB91–231480, PB91–146027 and PB92–207703, U.S. Department of Commerce, 5285 Port Royal Road, Springfield, Virginia 22161. The toll-free number is 800–553–6847. Method 1613 is available from USEPA–OST, Sample Control Center, P.O. Box 1407, Alexandria, VA 22313. The phone number is 703–557–5040. EPA Method 525.2 is available from EPA/EMSL, Cincinnati, OH 45268.

Contaminant	EPA method
Benzene	502.2, 524.2.
Carbon tetrachloride	502.2, 524.2, 551.
Chlorobenzene	502.2, 524.2.
1,2-Dichlorobenzene	502.2, 524.2.
1,4-Dichlorobenzene	502.2, 524.2.
1,2-Dichloroethane	502.2, 524.2.
cis-Dichloroethylene	502.2, 524.2.
trans-Dichloroethylene	502.2, 524.2.
Dichloromethane	502.2, 524.2.
1,2-Dichloropropane	502.2, 524.2.
Ethylbenzene	502.2, 524.2.
Styrene	502.2, 524.2.
Tetrachloroethylene	502.2, 524.2, 551.
1,1,1-Trichloroethane	502.2, 524.2, 551.
Trichloroethylene	502.2, 524.2, 551.
Toluene	502.2, 524.2.
1,2,4-Trichlorobenzene.	502.2, 524.2.
1,1-Dichloroethylene	502.2, 524.2.
1,1,2-Trichloroethane	502.2, 524.2.
Vinyl chloride	502.2, 524.2.
Xylenes (total)	502.2, 524.2.
2,3,7,8-TCDD (dioxin)	1613.
2,4-D	515.2, 555.
2,4,5-TP (Silvex)	515.2, 555.
Alachlor	505, 507[2], 525.2.
Atrazine	505, 507[2], 525.2.
Benzo(a)pyrene	525.2, 550, 550.1.
Carbofuran	531.1.
Chlordane	505, 508[2], 525.2.
Dalapon	552.1.
Di(2-ethylhexyl)adipate.	506, 525.2.
Di(2-ethylhexyl)phthalate.	506, 525.2.
Dibromochloropropane (DBCP).	504, 551.
Dinoseb	515.2, 555.
Diquat	549.1.
Endothall	548.1.
Endrin	505, 508[2], 525.2.
Ethylene dibromide (EDB).	504, 551.
Glyphosate	547, 6651[1].
Heptachlor	505, 508[2], 525.2.
Heptachlor Epoxide	505, 508[2], 525.2.
Hexachlorobenzene	505, 508[2], 525.2.
Hexachlorocyclopentadiene.	505, 525.2.
Lindane	505, 508[2], 525.2.
Methoxychlor	505, 508[2], 525.2.
Oxamyl	531.1.
PCBs[3] (as decachlorobiphenyl) (as Aroclors)	508A. 505, 508[2].
Pentachlorophenol	515.2, 525.2, 555.
Picloram	515.2, 555.
Simazine	505, 507[2], 525.2.
Toxaphene	508[2], 525.2.

[1] Method 6651 is contained in the 18th edition of *Standard Methods for the Examination of Water and Wastewater*, 1992, American Public Health Association, American Water Works Association, Water Environment Federation.

[2] Solid phase extraction procedures, as specified in EPA Method 525.2, may be used as an option with EPA Methods 507 and 508.

[3] PCBs are qualitatively identified as Aroclors and measured for compliance purposes as decachlorobiphenyl.

* * * * *

(h) * * *

(12) (Reserved)

(13) Analysis for PCBs shall be conducted as follows using the methods in paragraph (e) of this section:

(i) Each system which monitors for PCBs shall analyze each sample using either Method 505 or Method 508.

* * * * *

6. Section 141.30 is amended by removing and reserving paragraphs (e)(1) through (2), by revising paragraph (e)(4), and by adding paragraph (e)(5) to read as follows:

§ 141.30 Total trihalomethane sampling, analytical and other requirements.

* * * * *

(e) * * *

(1) (Reserved)

(2) (Reserved) * * *

(4) "Measurement of Purgeable Organic Compounds in Water by Capillary Column Gas Chromatography/Mass Spectrometry", EPA Method 524.2. This method is contained in *Methods for the Determination of Organic Compounds in Drinking Water—Supplement II*, EPA/600/R–92/129, August 1992.

(5) "Determination of Chlorination Disinfection Byproducts and Chlorinated Solvents in Drinking Water by Liquid-Liquid Extraction and Gas Chromatography with Electron Capture Detection", EPA Method 551. This method is contained in *Methods for the*

Determination of Organic Compounds in Drinking Water—Supplement I, EPA/600/4–90/020, July 1990.

* * * * *

7. Section 141.40 is amended by revising paragraphs (g), (n)(11), and (12) to read as follows:

§ 141.40 Special monitoring for inorganic and organic chemicals.

* * * * *

(g) Analysis for the unregulated contaminants listed under paragraphs (e) and (j) of this section shall be conducted using EPA Methods 502.2 or 524.2, or their equivalent as determined by EPA, except analysis for bromodichloromethane, bromoform, chlorodibromomethane and chloroform under paragraph (e) of this section also may be conducted by EPA Method 551. A source for the EPA methods is referenced at § 141.24(e).

* * * * *

(n) * * *

(11) Systems shall monitor for the unregulated organic contaminants listed below, using the method(s) identified:

Organic contaminants	EPA analytical method
Aldicarb	531.1.
Aldicarb sulfone	531.1.
Aldicarb sulfoxide	531.1.
Aldrin	505, 508[1], 525.2.
Butachlor	507[1], 525.2.
Carbaryl	531.1.
Dicamba	515.2, 555.
Dieldrin	505, 508[1], 525.2.
3-hydroxycarbofuran	531.1.
Methomyl	531.1.
Metolachlor	507[1], 525.2.
Metribuzin	507[1], 525.2.
Propachlor	508[1], 525.2.

[1] Solid phase extraction procedures, as specified in EPA Method 525.2, may be used as an option with EPA Methods 507 and 508.

(12) Systems shall monitor for sulfate, an unregulated inorganic contaminant, by using the methods listed at § 143.4(b).

* * * * *

7. Section 141.74 is amended by revising paragraphs (a)(1) and (a)(2) to read as follows:

§ 141.74 Analytical and monitoring requirements.

(a) * * *

(1) Public water systems must conduct analyses of total coliforms, fecal coliforms, heterotrophic bacteria, turbidity, temperature, and pH in accordance with one of the following analytical methods:

Organism	Method	Citation[1]
Total Coliforms.	Total Coliform Fermentation Technique.	9221A, B, C.
	Total Coliform Membrane Filter Technique.	9222A, B, C.
	ONPG–MUG Test.	9223.
Fecal Coliforms.	Fecal Coliform MPN Procedure.	9221E.
	Fecal Coliform Membrane Filter Procedure.	9222D.
Heterotrophic bacteria.	Pour Plate Method.	9215B.
Turbidity[4]	Nephelometric Method.	2130B.
	Nephelometric Method.	180.1[6].
	Great Lakes Instruments.	Method 2[3].
Temperature		2550.
pH		4500–H+ 150.1[2] D1293–84A or B[5].

[1] Except where noted, all methods refer to the 18th edition of *Standard Methods for the Examination of Water and Wastewater*, 1992, American Public Health Association, American Water Works Association, Water Environment Federation.

[2] "Methods for Chemical Analysis of Water and Wastes," EPA–600/4–79–020, March 1983. Available at NTIS as publication number PB84–128677.

[3] Method is available from Great Lakes Instruments, Inc., 8855 North 55th Street, Milwaukee, Wisconsin 53223.

[4] Calibration of the turbidimeter shall be made either by the use of a formazin standard as specified in the cited references or a styrene divinylbenzene polymer standard (Amco-AEPA–1 Polymer) commercially available from Advance Polymer Systems, Inc., 3696 Haven Avenue, Redwood City, California 94063.

[5] Annual Book of ASTM Standards, Vol. 11.01, 1993. American Society for Testing and Materials, 1916 Race Street, Philadelphia, PA 19103.

[6] "Methods for the Determination of Inorganic Substances in Environmental Samples", EPA/600/R/93/100, August 1993. EPA, Environmental Monitoring Systems Laboratory, Cincinnati, OH 45268, 1993.

(2) Public water systems must measure residual disinfectant concentrations with one of the following analytical methods:

Residual[1]	Methodology	Standard methods[2]
Free Chlorine.	Amperometric Titration.	4500–CL D.
	DPD Ferrous Titrimetric.	4500–Cl F.
	DPD Colorimetric.	4500–Cl G.
	Syringaldazine (FACTS).	4500–Cl H.
Total Chlorine.	Amperometric Titration.	4500–Cl D.
	Amperometric Titration (low level measurement).	4500–Cl E.
	DPD Ferrous Titrimetric.	4500–Cl F.
	DPD Colorimetric.	4500–Cl G.
	Iodometric Electrode.	4500–Cl I.
Chlorine Dioxide.	Amperometric Titration.	4500–ClO_2 C.
	DPD Method	4500–ClO_2 D.
	Amperometric Titration.	4500–ClO_2 E.
Ozone	Indigo Method.	4500–O_3 B.

[1] When the chemistry, accuracy, and precision remain same, the specified method may be adapted for continuous monitoring of free or total chlorine residuals. Instruments used for continuous monitoring must be calibrated with a grab sample measurement at least every five days, or with a protocol approved by the State.

[2] 18th edition of *Standard Methods for the Examination of Water and Wastewater*, 1992, American Public Health Association, American Water Works Association, Water Environment Federation.

* * * * *

PART 143—NATIONAL SECONDARY DRINKING WATER REGULATIONS

1. The authority citation for part 141 continues to read as follows:

Authority: 42 U.S.C. 300f, 300g–1, 300g–2 300g–3, 300g–4, 300g–5, 300g–6, 300j–4, 300j–9.

2. Section 143.4 is amended by revising paragraph (b) to read as follows:

§ 143.4 Monitoring.

* * * * *

(b) Analyses conducted to determine compliance with § 143.3 should be made in accordance with the methods in the following Table:

Contaminant	EPA	ASTM[3]	SM[4]	Other
Aluminum[6]	[2]200.7		3120B	
	[2]200.8			
	[2]200.9		3113B	
			3111D	[5]I–305–85.
Chloride	[8]300.0	4327–91	4110	

Contaminant	EPA	ASTM[3]	SM[4]	Other
			4500–Cl–D	
Color	[1]110.2	.....	2120B	
Copper[6]	[2]200.7	.....	3120B	
	[2]200.8	.....	.....	
	[2]200.9	.....	.....	
	[1]220.1	D1688–90A	3111B	
	[1]220.2	D1688–90C	3113B	
Fluoride	[8]300.0	D4327–91	4110	
		D1179–88A	4500F–B and D	
		D1179–88B	4500F–C	
			4500F–E	[7]129–71W. [10]380–75WE.
Foaming Agents	[1]425.1	.....	5540C	
Iron[6]	[2]200.7	.....	3120B	
	[2]200.9			
			3111B	
			3113B	
Manganese[6]	[2]200.7	.....	3120B	
	[2]200.8	.....	.....	
	[2]200.9	.....	.....	
		.....	3111B	
		.....	3113B	
Odor	[1]140.1	.....	2150B	
pH	[1]150.1	D1293–84B	4500–H	
	[1]150.2	.....	.....	
Silver[6]	[2]200.7	.....	3120B	
	[2]200.8	.....	3111B	[5]I–3485–85.
	[2]200.9	.....	3113B	
Sulfate	[8]300.0	D4327–91	4110	
	[8]375.2	.....	4500–SO_4–F	[5]I–2822–85.
		D516–90	4500–SO_4–E	[6]I–2823–85.
Total Dissolved Solids (TDS)	[1]160.1	.....	2540C	
Zinc[6]	[2]200.7	.....	3120B	
	[2]200.8	.....	.....	
			3111B	

[1] "Methods for Chemical Analysis of Water and Wastes," EPA–600/4–79–020, March 1983. Available at NTIS as publication number PB84–128677.

[2] "Methods for the Determination of Metals in Environmental Samples." Available at NTIS as publication number PB 91–231498, June 1991.

[3] *Annual Book of ASTM Standards,* Vols. 11.01 and 11.02, 1993, American Society for Testing and Materials, 1916 Race Street, Philadelphia, PA 19103.

[4] 18th edition of *Standard Methods for the Examination of Water and Wastewater,* 1992, American Public Health Association, American Water Works Association, Water Environment Federation.

[5] *Techniques of Water Resources Investigations of the U.S. Geological Survey,* Book 5, Chapter A–I, Third Edition, 1989. Available at Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

[6] Samples may not be filtered. Samples that contain less than 1 NTU (nephelometric turbidity unit) and are properly preserved (concentrated nitric acid to pH <2) may be analyzed directly (without digestion) for total metals, otherwise, digestion is required. Turbidity must be measured on the preserved samples just prior to the initiation of metal analysis. When digestion is required, the total recoverable technique as defined in the method must be used; samples cannot be filtered.

[7] "Fluoride in Water and Wastewater. Industrial Method No. 129–71 W." Technicon Industrial Systems. Tarrytown, NY, 10591, December 1972.

[8] "Methods for the Determination of Inorganic Substances in Environmental Samples", EPA/600/R/93/100, August 1993. EPA/Environmental Monitoring Systems Laboratory, Cincinnati, OH 45268.

[9] (Reserved)

[10] "Fluoride in Water and Wastewater," Method No. 380–75WE. Technicon Industrial Systems. Tarrytown, NY 10591, February 1976.

* * * * *

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federal register

Wednesday
December 15, 1993

Part III

Department of Transportation

Federal Highway Administration

49 CFR Part 391
Qualification of Drivers; Hearing Deficiencies; Waivers; Proposed Rule and Notice

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

49 CFR Part 391

[FHWA Docket No. MC–93–30]

RIN 2125–AD22

Qualification of Drivers; Hearing Deficiencies

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Advance notice of proposed rulemaking (ANPRM).

SUMMARY: The FHWA is requesting comments from interested parties on the need, if any, to amend its driver qualification requirements relating to the hearing standard. The FHWA believes that a review of the standard is necessary to assess its continued relevance and the effect advances in medical science and technology may have on the standard. Such advances may lead to amending the current standard.

DATES: Written, signed comments addressing this ANPRM must be received on or before February 14, 1994.

ADDRESSES: Submit written, signed comments to FHWA Docket No. MC–93–30, room 4232, HCC–10, Office of the Chief Counsel, Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590. All comments received will be available for examination at the above address from 8:30 a.m. to 3:30 p.m., e.t., Monday through Friday, except legal Federal holidays. Those desiring notification of receipt of comments must include a self-addressed, stamped postcard.

FOR FURTHER INFORMATION CONTACT: The FHWA has established a special telephone number to receive inquiries regarding this notice. The number is 1–800–832–5660. The TDD number is 1–800–699–7828. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except legal Federal holidays.

SUPPLEMENTARY INFORMATION:

Statutory Authority

The FHWA is authorized by statute to establish minimum driver qualification requirements for drivers of commercial motor vehicles engaged in interstate commerce. This authority was originally granted to the Interstate Commerce Commission (ICC) in the Motor Carrier Act of 1935 (also known as Part II of the Interstate Commerce Act, now codified, in relevant part, at 49 U.S.C. 3102 (1988)). The ICC's authority was transferred to the Department of Transportation (DOT) in 1966 with the enactment of the Department of Transportation Act which created the DOT. See 49 U.S.C. app. 1655(e)(6)(C), repealed by Public Law 97–449, section 7(b), 96 Stat. 2413, 2443, (1983) (an act to recodify without substantive change).

In 1984, the Congress directed the Secretary of Transportation to establish minimum safety standards to ensure that "the physical condition of operators of commercial motor vehicles is adequate to enable them to operate such vehicles safely * * *." 49 U.S.C. app. 2505(a)(3). The FHWA's primary concern is to enhance safety on the Nation's highways. It is not, however, the FHWA's policy to unnecessarily limit the employment opportunities of individuals with physical deficiencies. The FHWA seeks to be certain that its physical qualification requirements are based on sound medical expertise or empirical evidence and that individual determinations be made whenever to do so is consistent with the FHWA's responsibility to ensure that CMVs are operated safely.

Several congressional committee reports accompanying the Americans with Disabilities Act of 1990 (ADA), (42 U.S.C. 12101) expressly state that, while the committees expect persons who wish to drive CMVs to meet the FHWA's minimum physical qualification standards, the committees also expect the FHWA to review its standards in light of the ADA within 2 years. See H. Rep. No. 596, 101st Cong., 2d Sess. 60–61 (1990) (conference report); H. Rep. No. 485, Part 2, 101st Cong., 2d Sess. 57 (1990) (House Committee on Education and Labor); H. Rep. No. 485, Part 3, 101st Cong., 2d Sess. 34 (1990) (House Committee on the Judiciary); S. Rep. No. 116, 101st Cong., 1st Sess. 27–28 (1989) (Senate Committee on Labor and Human Resources). This ANPRM is part of that review with respect to the hearing standard. This review is also being conducted in light of section 504 of the Rehabilitation Act of 1973, as amended, Public Law 93–112, 87 Stat. 355.

Current Standard

The current auditory standard is found at 49 CFR 391.41(b)(11) and provides:

(b) A person is physically qualified to drive a [commercial] motor vehicle if that person—

* * * * *

(11) First perceives a forced whispered voice in the better ear at not less than 5 feet with or without the use of a hearing aid or, if tested by use of an audiometric device, does not have an average hearing loss in the better ear greater than 40 decibels at 500 Hz, 1,000 Hz, and 2,000 Hz with or without a hearing aid when the audiometric device is calibrated to American National Standard (formerly ASA Standard) Z24.5–1951.

Regulatory History

The importance of auditory capability was first recognized in 1937 when the FMCSRs required that CMV drivers have "adequate hearing."

The first change to the hearing standard was initiated in 1952 requiring that "hearing shall not be less than 10/20 in the better ear, for conversational tones, without a hearing aid."

The requirement was amended to be more specific on April 22, 1970. That amendment required that a qualified individual: "First perceives a forced whispered voice at not less than 5 feet in the better ear without use of a hearing aid, or, if tested by use of an audiometric device, does not have a loss greater than 25–30 decibels at 500 Hz, 1,000 Hz, and 2,000 Hz in the better ear without a hearing aid." (35 FR 6458, 6463).

On April 7, 1971, the Director of the Bureau of Motor Carrier Safety issued a notice of proposed rulemaking, inviting interested persons to comment on a proposal to permit drivers who must wear hearing aids in order to meet minimum physical qualifications to drive commercial motor vehicles (CMVs) in interstate or foreign commerce (36 FR 7144). No objections were received and the available evidence indicated that, because of improvements in hearing aid technology, persons who were required to wear hearing aids could drive CMVs without an appreciably higher risk of accidents than the general public. Accordingly, new rules permitting the use of a hearing aid to meet minimum physical qualifications became effective on July 8, 1971 (36 FR 12857).

At that time the FHWA also took the opportunity to increase the maximum permissible hearing loss from 25–30 decibels in the better ear to a loss of an average of 40 decibels at 500 Hz, 1,000 Hz, and 2,000 Hz in an audiometric test. The change was made after medical advisors informed the FHWA that the new standard was more realistic in permitting persons to drive who have moderate hearing losses.

The current rule has remained unchanged since 1971. Since that time, only one study (University of Pittsburgh, "Hearing Disorders and Commercial Motor Vehicle Drivers," (1992)), has been conducted on behalf of the FHWA addressing the role that hearing plays in driving motor vehicles, including commercial motor vehicles.

The University of Pittsburgh Study

In 1991, the FHWA entered into a research contract with the University of Pittsburgh, Department of Epidemiology. The purpose of this study was to (1) search, review, and evaluate all existing literature and available data on hearing loss as it relates to highway safety and performance of commercial driving tasks, (2) develop a risk assessment to determine an acceptable hearing level, (3) develop preliminary recommendations for an auditory standard appropriate to CMV drivers in interstate commerce, (4) have these recommendations reviewed and critically evaluated by a representative group of hearing specialists and motor carrier safety experts in a workshop, and (5) produce a report which could be utilized as the basis for a rulemaking.

The two main questions focused upon in that review were: (1) How hearing relates to driving safety; and (2) how the reduction or elimination of hearing affects driving performance. There is very little scientific data directly pertaining to these questions.

While considering those questions, an important third question soon became apparent: Are noise levels within truck cabs so high as to effectively negate the ability to hear sounds meaningful to the driving task? The study's data revealed that through the process of soundproofing and insulating the cab of the vehicle to screen out engine and tire noise, important emergency and warning sounds may be screened out from non-hearing impaired, as well as hearing-impaired, drivers.

The Pittsburgh study estimated that there are about 169,000 currently-licensed CMV drivers with hearing loss above 40 db and that only about 2,640 hearing impaired CMV drivers are screened out of the workforce (lose their driving privileges) every five years. The study further suggested that the overall impact from changing the current hearing standards to allow waivers for existing hearing impaired CMV drivers would most likely be minimal since most potential waiver recipients with hearing loss exceeding 40 db already operate CMVs. The predicted number of hearing-impaired drivers added to the license pool would be approximately 2,900 persons. That 2,900 would include the 2,640 drivers above who previously operated in interstate commerce, but failed their biennial medical examinations for reasons related to their hearing impairment. An additional 250 drivers who had operated solely in intrastate commerce under State waiver programs, but have no previous operation in interstate commerce, would also be added to the license pool through the institution of a waiver study program.

The report estimated, based on the scant data available, that the crash risk for the hearing-impaired driver is between 0.7 and 2.0 times the crash rate for a normal-hearing driver. The study also illuminated the lack of empirical data regarding hearing and CMV safety.

Because the Pittburgh study addressed the concerns of the medical community and the motor carrier industry, the FHWA is now requesting comments from those individuals directly affected by the regulations: the deaf community. The FHWA realizes that substantial advances have been made in the treatment and management of hearing loss and that the medical profession has a better understanding of compensatory capabilities within individuals. Therefore, the FHWA recognizes that a revision of the auditory standards may be appropriate. The FHWA is attempting, at this time, to balance the risk to public safety with its desire to avoid unreasonably restricting the employment opportunities of those persons with hearing deficiencies.

National Association of the Deaf Petition

The FHWA has received requests for waivers from the auditory standard, but has granted none. The FHWA also has received petitions for rulemaking to revise § 391.41(b)(11). The National Association of the Deaf petitioned the FHWA on behalf of Mr. Floyd D. Buck, of Chicago, Illinois, in May 1990, Mr. Michael Cousins, of Bridgton, Maine, in June 1990, and Mr. Richard Kirsch of Waubun, Minnesota, in May 1990. The petitioners requested that they be granted a waiver from 49 CFR 391.41(b)(11). The FHWA initially denied those petitions for individual waivers but is currently considering granting waivers to a larger group of individuals with certain hearing impairments. (See companion notice in today's **Federal Register**—Notice of intent to accept waivers.) The FHWA believes that all persons affected by a potential change in the regulation would be better served through the notice and comment process. Consequently, copies of all petitions and waiver requests submitted prior to the publication of this notice have been made part of the docket for this rulemaking and are available for public review.

Request for Comments

The FHWA requests comments from individuals, medical specialists, motor carriers, unions, driver organizations, motor carrier associations, and all other interested parties. The FHWA is seeking detailed technical and medical information on hearing requirements for drivers, especially commercial motor vehicle drivers. The information should include, but need not be limited to, recommended minimum standards, examination procedures (including who should be qualified to perform the auditory examination), related medical conditions which would adversely affect a person's ability to safely operate a CMV, and effective mitigating conditions which could be used in place of an absolute prohibition on driving for persons with certain hearing impairments and related medical problems. The FHWA is also seeking information on advances made in the treatment and accommodation of individuals with auditory impairment and/or loss, especially as it relates to the safe operation of a CMV. We are interested in receiving information on all aspects of the hearing standard for CMV drivers (i.e., examination procedures, guidelines, consultations, documentation, limitations or restrictions, compensating factors, etc.). Additionally, information is requested concerning the potential costs, benefits, and safety risks associated with allowing persons with auditory impairment to drive CMVs.

The FHWA is particularly interested in receiving responses to the following questions. Comments need not, however, be limited to these questions. Commenters are urged to include scientific and medical data to support their comments.

1. Do CMV drivers need to be able to hear? If so, at what level?

2. If CMV drivers need to hear, is the current minimum screening level for pure tone testing (40 db) complete and appropriate? What, if any, additional auditory diagnostic tests and/or evaluation procedures should be included in the current standard?

3. What devices, requirements, or modifications, (e.g., lipreading ability, hearing aids, specially designed mirrors, visual warning devices, etc.) if used, would act as reasonable accommodation for hearing loss in the absence of other relevant communication skills? Should they be required?

4. Is data available concerning auditory requirements for operating motor vehicles, particularly trucks?

5. Is any other data available relevant to hearing and driving?

6. Does the current minimum screening level for pure tone testing (40 db) reflect the current state of knowledge in the hearing sciences both in terms of methods of treatment and/or correction and from public safety considerations for the motor carrier industry?

7. Should hearing impaired persons be allowed to operate a CMV carrying hazardous materials or passengers? If so, at what level of impairment should they be allowed to drive?

8. Are there specific auditory conditions which warrant medical disqualification pursuant to the FMCSRs? If so, what conditions should result in medical disqualification?

9. Are there currently available training methods or courses specifically designed to enhance sensory perception in relation to the driving function that would compensate for any reduced ability due to hearing loss?

10. What accident information, driver history information, or other conditions (including medical conditions) should be considered prior to qualifying a hearing impaired individual in any future rulemaking or permanent waiver program?

11. If the FHWA were to implement a permanent hearing waiver program following the conclusion of the proposed study, what should be the minimum preconditions required of the driver, such as a physician's recommendation, driving experience, driving history and accident involvement, additional training, and over the road driving test?

12. Are there mitigating factors that may reduce the risk associated with hearing impairment?

13. Should there be specific requirements with respect to the need to communicate with (1) passengers, (2) enforcement personnel, (3) emergency response personnel, or (4) dispatchers for safety reasons? If so, what level of verbal communication skills would be adequate? Are non-verbal communication skills adequate? (e.g., speech, hearing aid, written communication or lipreading);

14. What testing (audiometric, forced whisper) should be used to determine an applicant's level of hearing, which in turn would be considered in determining his/her ability to operate a CMV? Who (certified audiologist, technician, physician, or nurse) should administer such tests and certify as to the applicant's ability to perform the driving task required to operate a CMV?

As stated previously, commenters are not limited to responding to the above questions. They are encouraged to submit any facts or views relevant to the role of hearing in the safe operation of commercial motor vehicles.

The FHWA is reexamining the blanket medical restrictions on CMV drivers in an effort to balance the public interest expressed in the Rehabilitation Act of 1973, as amended, to minimize categorical exclusions of individuals with disabilities and the obligation to ensure public safety on the highways. The enactment of the Americans With Disabilities Act (42 U.S.C. 12101–12213) reinforced the FHWA's responsibility to conduct a review of its physical standards to ensure that they conform with current knowledge about capabilities of persons with disabilities and current available technical aids. Our efforts to update the hearing standard have been hampered by a lack of empirical data in this area. This is compounded by the fact that only two States maintain information on the accident experience of hearing-impaired drivers.

In view of the above, the FHWA is requesting comments on a proposal to initiate a waiver study program (Docket No. MC–93–25) for certain hearing deficient drivers, which would allow the agency to gather data regarding the safe operation of CMVs (See companion notice in today's **Federal Register**—Notice of intent to issue waivers). If it proceeds, that study program would allow the FHWA to analyze and compare a group of experienced, hearing deficient drivers with a control group of drivers who meet the current Federal hearing standard. Through such a waiver study program, this agency would expect to obtain sufficient data to provide a reliable basis to establish, if warranted, a new hearing standard in this concurrent rulemaking.

Rulemaking Analyses and Notices

All comments received before the close of business on the comment closing date indicated above will be considered and will be available for examination in the docket at the above address. Comments received after the comment closing date will be filed in the docket and will be considered to the extent practicable. In addition to late comments, the FHWA will also continue to file relevant information in the docket as it becomes available after the comment closing date, and interested persons should continue to examine the docket for new material.

Executive Order 12866 (Regulatory Planning and Review) and DOT Regulatory Policies and Procedures

The action being considered by the FHWA in this document would amend the physical qualification requirement for hearing-impaired drivers of commercial motor vehicles subject to the FMCSRs. The FHWA has determined that the proposed action, if implemented, would be a significant regulatory action under Executive Order 12866 and a significant regulation under the regulatory policies and procedures of the DOT because of the substantial public interest anticipated in this action. The potential economic impact of this rulemaking is not known at this stage. Therefore, a full regulatory evaluation has not yet been prepared.

Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act, 5 U.S.C. 601–612, the agency will evaluate the effects of this proposal on small entities. Following the agency's evaluation, the FHWA will certify whether this proposed action will have a significant economic impact on a substantial number of small entities.

Executive Order 12612 (Federalism Assessment)

This action will be analyzed in accordance with the principles and criteria contained in Executive Order 12612 to determine whether it has sufficient federalism implications to warrant the preparation of a full Federalism Assessment.

Executive Order 12372 (Intergovernmental Review)

Catalog of Federal Domestic Assistance Program Number 20.217, Motor Carrier Safety. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.

Paperwork Reduction Act

This rule does not contain a collection of information requirement for purposes of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501–3520.

National Environmental Policy Act

The agency will analyze this action for the purpose of the National Environmental Policy Act of 1969 to determine whether this action will have any effect on the quality of the environment.

Regulation Identification Number

A regulatory identification number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN contained in the heading of this document can be

used to cross reference this action with the Unified Agenda.

List of Subjects in 49 CFR Part 391

Driver qualifications, Highways and roads, Highway safety, Motor carriers, Motor vehicle safety.

Authority: 49 U.S.C. 3102; 49 U.S.C. app. 2505; 49 CFR 1.48.

Issued on: December 6, 1993.

Rodney E. Slater,

Federal Highway Administrator.

[FR Doc. 93–30504 Filed 12–14–93; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[FHWA Docket No. MC–93–25]

Qualification of Drivers; Hearing Deficiencies; Waivers

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent to initiate a study examining the relationship between hearing deficiencies and safe operation of commercial motor vehicles; request for comments.

SUMMARY: The FHWA announces its intent to initiate a 3-year study examining the effects of hearing deficiencies on the ability to operate commercial motor vehicles (CMVs). To conduct the study, the FHWA intends to provide temporary waivers from the hearing qualification standards contained in the Federal Motor Carrier Safety Regulations (FMCSRs) to drivers meeting certain conditions. Comments are requested on this action. This action would preserve and expand job opportunities, at least temporarily, of certain drivers who do not meet the current Federal hearing standard. Drivers accepted into the study must have (1) demonstrated the ability to operate CMVs, (2) met the qualification standard of State licensing agencies that presently allow or have allowed hearing-impaired drivers to obtain a license to operate CMVs in intrastate commerce, and (3) agreed to close monitoring and reporting during the study period. The Federal waiver study program would permit the FHWA to obtain objective data for use in the concurrent rulemaking action to update the hearing standard (See companion notice in today's **Federal Register**—advance notice of proposed rulemaking; hearing deficiencies). Applications for waivers will not be accepted at this time. Following a review of the comments submitted in response to this docket, the FHWA will determine whether to proceed with the waiver study program. If a decision to proceed with the waiver study program is made, waivers would be granted only to those applicants who meet specific conditions and comply with the requirements of the waiver.

DATES: Written comments addressing this notice must be received on or before January 14, 1994. After the comment period has closed and comments have been analyzed, the FHWA will publish, in the **Federal Register**, a notice of final disposition addressing the proposed waiver study program.

ADDRESSES: Submit written, signed comments to FHWA Docket No. MC–93–25, Room 4232, HCC–10, Office of the Chief Counsel, Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590. All comments received will be available for examination at the above address from 8:30 a.m. to 3:30 p.m., e.t., Monday through Friday, except legal Federal holidays. Those desiring notification of receipt of comments must include a self-addressed, stamped postcard.

FOR FURTHER INFORMATION CONTACT: The FHWA has established a special telephone number to receive inquiries regarding this notice. The number is 1–800–832–5660. The TDD number is 1–800–699–7828. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except legal Federal holidays.

SUPPLEMENTARY INFORMATION: The Federal government began promulgating hearing standards for drivers engaged in interstate commerce in 1937. The FMCSRs required "adequate hearing." Hearing requirements became more specific in the 1970s. The current hearing standard, found at 49 CFR 391.41(b)(11) provides:

(b) A person is physically qualified to drive a motor vehicle if that person—

* * * * *

(11) First perceives a forced whispered voice in the better ear at not less than 5 feet with or without the use of a hearing aid or, if tested by use of an audiometric device, does not have an average hearing loss in the better ear greater than 40 decibels at 500 Hz, 1,000 Hz, and 2,000 Hz with or without a hearing aid when the audiometric device is calibrated to American National Standard (formerly ASA Standard) Z24.5—1951.

* * * * *

Presently, the FHWA is reviewing its hearing standard in order to assess its relevance in today's environment and the effect of advances in medical science and technology on this standard. This review may lead to amending the current standard (See companion notice in today's **Federal Register**—advance notice of proposed rulemaking; hearing deficiencies). As part of this process, the FHWA entered into a contract with the University of Pittsburgh, Department of Epidemiology to review and evaluate the existing knowledge on hearing capabilities as they relate to the safety and performance of commercial driving tasks. Its final report, "Hearing Disorders and Commercial Motor Vehicle Drivers" (1992), presented models of investigation, a literature review, and estimates of risk. The report estimated that based on the scant data available, "(T)he crash risk for a driver with hearing loss is between 0.7 and 2.0 times the crash rate for a normal-hearing driver." This review also illuminated the lack of empirical data regarding hearing impairment and the ability to operate a CMV safely. (See related advance notice of proposed rulemaking in today's **Federal Register**).

The current regulations in 49 CFR 391.41 prescribe certain physical qualification standards without any discretion regarding individual circumstances. Drivers who are unable to meet those standards are precluded from operating CMVs in interstate commerce. Many more drivers are now or will be precluded from operating a CMV in intrastate commerce as more and more States adopt the Federal driver qualification requirements as a condition to the receipt of federal funds under the Motor Carrier Safety Assistance Program (MCSAP). Although the FHWA has received requests for waivers from the auditory standard, it has granted none. The FHWA also has received petitions for rulemaking to revise 49 CFR 391.41(b)(11). The National Association of the Deaf petitioned the FHWA on behalf of Mr. Floyd D. Buck, of Chicago, Illinois, in May 1990, Mr. Michael Cousins, of Bridgton, Maine, in June 1990, and Mr. Richard Kirsch of Waubun, Minnesota, in May 1990. The petitioners requested that they be granted a waiver from 49 CFR 391.41(b)(11). The FHWA initially denied those petitions for individual waivers, but agreed to consider them as petitions for rulemaking.

The Motor Carrier Safety Act of 1984 authorizes the granting of a waiver from any part of the FMCSRs if it can be determined that "such waiver is not contrary to the public interest and is consistent with the safe operation of commercial motor vehicles." 49 U.S.C. app. 2505(f).

At this time the agency believes that a good driving record with a minimum of 3 years of driving experience coupled with a limited sample size and finite duration of the hearing study, meet that two-pronged test. The reasoning underlying this belief is that experienced drivers with good driving records already operating on the highway, who are able to meet the proposed conditions of the waiver study, have demonstrated satisfactorily their ability to compensate for their deficiency. Consequently, the FHWA believes that such drivers are not likely to increase the risk to the general public by continuing to operate for three more

years provided their condition does not change for the worse.

Moreover, any conceivable risk occasioned by allowing currently unqualified operators to drive would be further ameliorated by limiting this program to those drivers who apply within the confined period of time, who meet the experience cited, and who are willing to accept the reporting requirements and ongoing monitoring that are proposed conditions of enrolling in the study program. This monitoring includes monthly review of driving reports and six-month validation of those reports by obtaining an updated motor vehicle report (MVR) from each driver's licensing State.

The FHWA has, therefore, decided to propose a study program which would provide the necessary data regarding hearing and CMV safety and avoid any unreasonable enhancement of risk. This action would also preserve the jobs of drivers who are being subjected to more stringent hearing standards for the first time and are faced with job loss. This study program would embrace the concepts of "individual determination," through the issuance of waivers on a case-by-case basis, and employment of qualified individuals with disabilities found in the Americans with Disabilities Act of 1990, Public Law 101–336, 104 Stat. 327, and its forerunner, the Rehabilitation Act of 1973, Public Law 93–112, 87 Stat. 355. However, the waiver study program itself would be initiated pursuant to the Motor Carrier Safety Act of 1984. The study program would allow the FHWA to conduct a study comparing a group of experienced hearing-impaired drivers with a control group of drivers who meet the Federal hearing standard, for a finite period of time, and to perform an in-depth comparative analysis of both groups. It is anticipated that the FHWA would obtain sufficient empirical data, which, when analyzed, would provide a reliable basis for establishing hearing requirements that are consistent with the goals of safety, yet provide maximum employment opportunity. The FHWA would use the data collected from the waiver study program to review the FHWA's driver hearing standard.

The FHWA is targeting a group of participants whose hearing deficiencies range in degree from no hearing ability at all to barely below present hearing standards. The FHWA believes that limiting the duration of the application period to six months will enable it to attract sufficient numbers of applicants to complete a statistically valid study while at the same time limiting the public's exposure to any unforeseen potential risk to the three-year period. Restricting the issuance of waivers to those drivers who timely apply to participate and who meet the conditions set forth below would not be contrary to the public interest and would ensure that the waiver study program is consistent with the safe operation of CMVs. If the waiver study program proceeds, the FHWA will seek a large number of volunteers to participate in the control group.

To aid in its decision-making, the FHWA is seeking comments to specific questions, listed below, which it believes must be considered in making the determination as to whether to issue waivers to hearing-impaired persons. These questions and others also appear in the advance notice of proposed rulemaking, published elsewhere in today's **Federal Register**. Comments need not, however, be limited to these questions:

1. If the driver does not need to hear, what devices, requirements, or modifications (e.g., lip-reading ability, hearing aids, specially designed mirrors, visual warning devices, etc.) if used, would effectively compensate for hearing loss? Should they be required?

2. Should hearing impaired persons be allowed to operate a CMV carrying hazardous materials or passengers? If so, at what level of impairment should they be allowed to drive?

3. Are there specific auditory conditions which warrant medical disqualification pursuant to the FMCSRs? If so, what should be deemed not medically qualified?

4. Should there be specific requirements with respect to the need to communicate for safety reasons with (1) passengers, (2) enforcement personnel, (3) emergency response personnel, or (4) dispatchers? If so, what level of verbal communication skills would be adequate? Are non-verbal communication skills adequate?

Discussion of Application Conditions

(Actual application instructions can be found below in the section titled **Application Instructions**).

The FHWA must ensure that the issuance of waivers for hearing-impaired individuals is not contrary to the public interest and is consistent with the safe operation of CMVs. To eliminate any adverse impact on safety and to preserve the integrity of the study, drivers who now hold a valid Federal vision or diabetes waiver issued by the FHWA would not be accepted into the hearing waiver study program.

Waivers would only be granted to those hearing-impaired persons who, as demonstrated by appropriate documentation, satisfy all of the waiver study program conditions and are otherwise physically qualified pursuant to the FMCSRs. If granted, waivers would be valid for a three-year period unless revoked for failure by the driver to comply with the requirements of the waiver, or until resolution of a concurrent rulemaking action, whichever occurs first. Waivers, therefore, would only be granted to those hearing-impaired persons who:

(1) Are currently licensed to operate a CMV or who were validly licensed after April 1, 1990, but could not renew their license because of their hearing deficiency;

(2) Operated a CMV with their hearing deficiency for the three-year period immediately preceding:

(a) The date of the application for waiver, if the applicant is currently licensed to operate a CMV; or

(b) The date (after April 1, 1990) the applicant last held a valid license to operate a CMV;

(3) Have a driving record for that three-year period that:

(a) Contains no suspensions or revocations of the applicant's driver licenses for the operation of any motor vehicle including their personal vehicle (does not apply to suspensions or revocations due to nonpayment of fines or other non-operating reasons);

(b) Contains no involvement in an accident (as defined in 49 CFR 390.5) for which the applicant received a citation for a moving traffic violation while operating a CMV;

(c) Contains no convictions for a disqualifying offense described in 49 CFR 383.51 or more than one serious traffic violation defined in 49 CFR 383.5 while operating a CMV; and

(d) Contains no more than two convictions for any other moving traffic violation while operating a CMV;

Special Note: Any waiver applicant who is arrested or cited for, or convicted of, any disqualifying offense or other moving violation during the period of time the application is pending, must immediately report such arrests, citations, or convictions to the Hearing Waiver Program, 400 Seventh Street, SW., Washington, DC 20590. Failure to do so may result in a denial or rescission of the waiver. No waiver would be issued while any charge against an applicant, for what would be a disqualifying offense, is still pending. Convictions occurring during the processing of the application would be considered in the overall driving record.

(4) Have been examined by an audiologist certified by the American Speech, Language and Hearing Association after the FHWA reaches its decision on the issuance of hearing waivers, and a notice of final

disposition announcing its decision has appeared in the Federal Register; and that audiologist, in writing, has:

(a) Identified and defined the hearing impairment in each ear separately using an audiometric device that is calibrated to American National Standard (formerly ASA Standard) Z24.5—1951;

(b) Identified and defined the cause of the hearing impairment (if known);

(c) Identified any changes in the level of hearing in each ear separately since the last hearing examination required by the waiver;

(d) Certified that in his/her professional opinion, you are, with your hearing impairment, able to communicate in a specific job situation with passengers, law enforcement officers, or emergency response teams and identified what alternate form(s) of communication (speech, hearing aid, written communication or lip reading) will be used;

(e) Recommended assistive devices such as mirrors, enhanced visual turn indicators, and visible alerting devices that detect sirens, horns, and other loud road noises.

Discussion of Waiver Conditions

There would be special conditions attached to any waiver issued to a hearing-impaired driver. These requirements would ensure that the FHWA receives the data needed to complete the research effort. The reporting requirements, a six month verification of every waived driver's MVR, and the CDL standards applicable to waived drivers will ensure that unsafe, hearing-impaired drivers are removed from operation in the same manner as other unsafe drivers. Waived drivers will not be afforded any additional privileges that would allow them to operate differently from other CMV drivers in interstate commerce. Under the proposed waiver study program each driver would be required to:

(a) Report, in writing, any citation for a moving violation involving the operation of a CMV to the Hearing Waiver Program no later than 15 days following issuance. A photostatic copy of the citation issued must accompany the written report;

(b) Report, in writing, the judicial or administrative disposition of any citation for a moving violation involving the operation of a CMV to the Hearing Waiver Program within 15 days following the notice of disposition;

(c) Report, in writing, any accident involvement whatsoever while operating a CMV to the Hearing Waiver Program within 15 days following the accident (include State, insurance company, and/or motor carrier accident reports);

(d) Report, in writing, any change of residential address or telephone number to the Hearing Waiver Program within 15 days after such a change;

(e) Report, in writing, any change of employer, (include name, address, and telephone number of new employer), or change in the type of vehicle operated to the Hearing Waiver Program within 15 days after such a change;

(f) Submit a signed statement from an audiologist certified by the American Speech, Language and Hearing Association to the Hearing Waiver Program, within 15 days before each anniversary of the waiver issuance date, that you have been reexamined within the past 6 weeks. The audiologist's statement shall also:

(1) Identify and define the hearing impairment in each ear separately using an audiometric device that is calibrated to American National Standard (formerly ASA Standard) Z24.5—1951;

(2) Identify any changes in the level of hearing in each ear separately since the last hearing examination required by the waiver;

(3) Certify that in the audiologist's professional opinion, you are, with your hearing impairment, able to communicate in a specific job situation with passengers, law enforcement officers, or emergency response teams and identified such alternate form(s) of communication (speech, hearing aid, written communication or lip reading).

Note: Do not submit medical records, bills, or reports.

(g) Report to the Hearing Waiver Program, no later than the 15th calendar day of each month (not including the month in which the waiver becomes effective), the following information:

(1) The number of interstate/intrastate miles you drove a commercial motor vehicle (CMV) during the preceding month. For example, if you drove 3,000 miles for the preceding month (July), you must report that information by the 15th day of the next month (August);

(2) The number of daylight hours and the number of nighttime hours you drove a CMV during the preceding month. For example, if you drove 170 daylight hours and 50 nighttime hours during the preceding month (July), you must report that information by the 15th day of the next month (August); and

(3) The number of days you did not drive a CMV during the preceding month. For example, if you did not drive a CMV a total of 9 days during the preceding month (July), you must report that information by the 15th day of the next month (August).

Note: The monthly report should be mailed as soon after the first day of each month as possible to ensure that the report is received at the office of the Driver Waiver Program by the 15th day of each month.

All documentation described in items (a) through (g), above, must be mailed to the Hearing Waiver Program, 400 Seventh Street, SW., Washington, DC 20590. Failure to submit reports on time may be cause for revocation of the waiver.

Application Instructions

The FHWA is proposing that if it decides to go forward with the Hearing Waiver Study Program, the following application procedures be used. Comments are requested on these procedures.

Drivers who hold a valid vision or diabetes waiver issued by the FHWA would not be accepted into the Hearing Waiver Study Program.

Applicants for a waiver from the hearing qualification requirement would be required to submit their applications on plain paper (there is no application form), include all supporting documents, and use the format set forth below. Each information item must be completed by an appropriate answer or marked "None", or "NA" if not applicable.

Vital Statistics

Name of applicant (first name, middle initial, last name);

Address (street number and name);

City, State, and Zip Code;

Telephone Number (area code and number);

Sex (male or female);

Date of Birth (month, day, and year);

Age;

Social Security Number;

State Driver's License Number (List all licenses held during the three-year period either immediately preceding the date of application, or the three-year period immediately preceding the date you last held a license (after April 1, 1990) to operate a CMV.);

Issuing State;

Driver's License Expiration Date; and

Driver's License Classification Code (If not a CDL classification code, specify what vehicles may be operated under such code).

Experience

Note: List separately the number of years and the number of miles driving for each type of vehicle specified below. If you have no experience in a particular type of vehicle, indicate with "0" or "None."

Total number of years driving a commercial motor vehicle;

Number of years driving straight trucks;

Approximate number of miles driving straight trucks;

Number of years driving tractor/trailer combinations;

Approximate number of miles driving tractor/trailer combinations;

Number of years driving buses; and

Approximate number of miles driving buses.

Anticipated Operations After Waiver is Issued

Your employer's/prospective employer's name, address, and telephone number;

The type of vehicle you will operate (straight truck, tractor/trailer combination, bus);

The commodities that will be transported (e.g., general freight, liquids in bulk (in cargo tanks), steel, dry bulk, large heavy machinery, refrigerated products);

The States in which you will drive;

The estimated number of miles you will drive per year;

The estimated number of daylight driving hours per week; and

The estimated number of nighttime driving hours per week.

Experience Factor

An applicant must have accumulated at least three years of experience operating a CMV on a regular basis. If the applicant does not currently hold a commercial license, that experience must have been accumulated during the three years that the applicant most recently held a commercial license after April 1, 1990.

Note: To qualify for a waiver, an applicant must have been hearing-impaired during the period from the date of the application back through the date the documented cumulative three-years of driving experience began.

Supporting Documents

The application must include supporting documents for each of the four areas listed below:

(1) You must submit one of the following:

(a) A legible photostatic copy of both sides of the commercial driver's license (CDL) you now possess; or

(b) A legible photostatic copy of both sides of the driver's license (non-CDL) you now possess; or

(c) A legible photostatic copy of both sides of the driver's license you last possessed to operate a CMV after April 1, 1990; or

(d) A certification from the State licensing agency showing the type and effective dates of your last license;

(2) That you have operated a CMV for the three-year period immediately preceding:

(a) The date of the application, if you are currently licensed to drive a CMV; or

(b) The date (after April 1, 1990) you last held a valid license to operate a CMV by submitting the following:

(i) A signed statement from all your present and/or past employer(s) on company letterhead. If letterhead is unavailable, you must obtain a notarized statement from the employer(s). In the event your previous employer(s) are no longer in business, or you were operating as an independent motor carrier, submit a notarized statement, signed by you;

(ii) Information in the statements must indicate if your job was driving a CMV; the type of vehicles you operated; whether it was full-time or part-time employment (part-time employment must be explained in detail); and the dates (month and year) you started and stopped driving a CMV;

(3) A State-issued motor vehicle driving record (MVR) for the period from the date of the application back to the date the documented cumulative three-years of driving experience began, which:

(a) Contains no suspensions, cancellations, or revocations of your driver's license for the operation (moving violations) of any motor vehicle (including your personal vehicle);

(b) Contains no involvement in an accident, as defined in 49 CFR 390.5, for which you received a citation and were subsequently convicted for a moving traffic violation while operating a CMV;

(c) Contains no convictions for a disqualifying offense, as defined in 49 CFR 383.51(b)(2), or more than one serious traffic violation, as defined in 49 CFR 383.5, while driving a CMV which disqualified, or should have disqualified, you in accordance with the driver disqualification provisions of 49 CFR 383.51; and

(d) Contains no more than two convictions for any other moving traffic violations in a CMV;

(You must submit an MVR from each State in which you were licensed during that cumulative three-year period);

Note: The driving record must be furnished by an official State agency, on its letterhead, bear the State seal, or official stamp and be signed by an authorized State official. No other documentation will be accepted. If the MVR shows either convictions for moving violations or accident involvement but does not indicate the type of vehicle operated or the number of miles above the posted speed limit, additional official documentation must be provided by you (e.g., a copy of the citation or accident report, or copies of court records).

Special Note: Any waiver applicant who is arrested or cited for, or convicted of, any disqualifying offense or other moving violation during the period of time the application is pending must immediately report such arrests, citations, or convictions to the Hearing Waiver Program, 400 Seventh Street, SW., Washington, DC 20590. Failure to do so may result in a denial or rescission of the waiver. No waiver will be issued while any charge against an applicant, for what would be a disqualifying offense, is still pending. Convictions occurring during the processing of the application will be considered in the overall driving record.

(4) That you have been examined by an audiologist certified by the American Speech, Language and Hearing Association after the FHWA reaches its decision on the issuance of hearing waivers and a notice of final disposition announcing its decision has appeared in the **Federal Register**. This report must be on the audiologist's letterhead, dated, and signed, and state that the audiologist has:

(a) Identified and defined the hearing impairment in each ear separately using an audiometric device that is calibrated to American National Standard (formerly ASA Standard) Z24.5—1951;

(b) Identified and defined the cause of the hearing impairment (if known);

(c) Identified any changes in the level of hearing in each ear separately since the last hearing examination;

(d) Certified that in his/her professional opinion, you are, with your hearing impairment, able to communicate in a specific job situation with passengers, law enforcement officers, or emergency response teams;

(e) Identified alternate form(s) of communication (speech, hearing aid, written communication or lip reading) that will be used;

(f) Recommended assistive devices such as mirrors, enhanced visual turn indicators, and visible alerting devices that detect sirens, horns, and other loud road noises.

Note: Do not submit other medical records, bills, etc. Conditions for Retaining A Hearing Waiver Once Issued.

There would be special requirements attached to any waiver issued to a hearing-impaired driver. These requirements would be imposed to ensure that the FHWA receives the data needed to complete the research effort. The reporting requirements, a six month verification of every waived driver's MVR, and the CDL standards applicable to waived drivers will ensure that unsafe, hearing-impaired drivers are removed from operation in the same manner as other unsafe drivers. Waived drivers will not be afforded any additional privileges that would allow them to operate differently from other CMV drivers in interstate commerce. Each driver would be required to:

(a) Report, in writing, any citation for a moving violation involving the operation of a CMV to the Hearing Waiver Program within 15 days following issuance (a photostatic copy of the citation issued must accompany the written report);

(b) Report, in writing, the judicial or administrative disposition of any citation for a moving violation involving the operation of a CMV to the Hearing Waiver Program within 15 days following the notice of disposition;

(c) Report, in writing, any accident involvement whatsoever while operating a CMV to the Hearing Waiver Program within 15 days following the accident (include State, insurance company, and/or motor carrier accident reports);

(d) Report, in writing, any change of residential address or telephone number to the Hearing Waiver Program within 15 days after such a change;

(e) Report, in writing, any change of employer, (include name, address, and telephone number of new employer), or type of vehicle operated to the Hearing Waiver Program within 15 days after such a change.

(f) Submit a signed statement from an audiologist certified by the American Speech, Language and Hearing Association to the Hearing Waiver Program, within 15 days before each anniversary of the waiver issuance date, that you have been examined within the last 6 weeks. In the audiologist's statements, he/she shall also:

(1) Identify and define the hearing impairment in each ear separately using an audiometric device that is calibrated to American National Standard (formerly ASA Standard) Z24.5—1951;

(2) Identify any changes in the level of hearing in each ear separately since the last hearing examination required by the waiver;

(3) Certify that in the audiologist's opinion, you are, with your hearing impairment, able to communicate in a specific job situation with passengers, law enforcement officers, or emergency response teams;

(4) Identify alternate form(s) of communication (speech, hearing aid, written communication or lip reading) that will be used;

(g) Report to the Hearing Waiver Program, by the 15th calendar day of each month (not including the month in which the waiver becomes effective), the following information:

(1) The number of interstate/intrastate miles you drove a commercial motor vehicle (CMV) during the preceding month. For example, if you drove 3,000 miles for the preceding month (July), you must report that information by the 15th day of the next month (August);

(2) The number of daylight hours and the number of nighttime hours you drove a CMV during the preceding month. For example, if you drove 170 daylight hours and 50 nighttime hours during the preceding month (July), you must report that information by the 15th day of the next month (August); and

(3) The number of days you did not drive a CMV during the preceding month. For example, if you did not drive a CMV a total of 9 days during the preceding month (July), you must report that information by the 15th day of the next month (August).

Note: The monthly report should be mailed within the first few days of each month in order to ensure that the report will be received at the office of the Hearing Waiver Program by the 15th day of each month.

If the answer to one or all of the above questions is 0, then state "0" or "none", do not leave any question unanswered or it will be considered "Failure to report," and your waiver is in jeopardy. All documentation described in items (a) through (g) above, must be mailed to the Hearing Waiver Program, 400 Seventh Street, SW., Washington, DC 20590. Failure to submit reports within the time periods described above may be cause for revocation of the waiver.

Control Group Participants

To successfully perform the comparative analysis which would be used to establish a basis for rulemaking action, a control group of drivers, the same size as or larger than the group of waived drivers, is necessary. Consequently, if the waiver study program proceeds, the FHWA would seek a large number of drivers who are currently qualified under the FMCSRs to volunteer for the control group. These volunteers would be asked to submit the same demographic and work-related information required from waiver applicants. The FHWA seeks the cooperation of all motor carriers, owner-operators, drivers, trade associations, and labor unions to encourage drivers to volunteer for participation in this very important study. The FHWA would pursue additional outreach efforts to enlist the necessary cooperation. Those drivers interested in participating in the control group should notify the FHWA of their interest by writing to the Waiver Program Control Group, 400 Seventh Street, SW., Washington, DC 20590 or by calling 1–800–832–5660 and asking for information concerning the Waiver Program Control Group. Following such contact, information would be sent to each prospective control group volunteer.

Those drivers who voluntarily participate in the control group would be asked to:

(a) Report any citation for a moving violation involving the operation of a CMV to the Waiver Program Control Group within 15 days following issuance (a photostatic copy of the citation issued will meet the reporting requirement);

(b) Report the judicial or administrative disposition of such charge to the Waiver Program Control Group within 15 days following the notice of disposition;

(c) Report any accident involvement whatsoever while operating a CMV to the Waiver Program Control Group within 15 days following the accident (include State, insurance company, and/or motor carrier accident reports);

(d) Report any change of residential address or telephone number to the Waiver Program Control Group within 15 days after such a change;

(e) Report any change of employer, (include name, address, and telephone number of new employer), or type of vehicle operated to the Waiver Program Control Group within 15 days after such a change.

(f) Report the information listed below to the Waiver Program Control Group by the 15th calendar day of each quarter. The quarterly report should be mailed as soon after the first day of each quarter as possible. This will ensure that the report will be received at the office of the Driver Waiver Program by the 15th day of each quarter.

(1) The number of interstate/intrastate miles spent driving a commercial motor vehicle (CMV) during the preceding quarter. For example, you drove 12,000 miles for the preceding quarter (three-month period) that ended on June 30. This information must be reported by the 15th day of the next quarter (July 15);

(2) The number of daylight hours and the number of nighttime hours spent driving a CMV during the preceding quarter. For example, you drove 500 daylight hours and 150 nighttime hours during the preceding quarter that ended on June 30. This information must be reported by the 15th day of the next quarter (July 15); and

(3) The number of days not spent driving a CMV during the preceding quarter. For example, you did not drive a CMV a total of 26 days during the preceding quarter that ended on June 30. This information must be reported by the 15th day of the next quarter (July 15).

Authority: 49 U.S.C. 3102; 49 U.S.C. App. 2505; 49 U.S.C. 504, 23 U.S.C. 315, and 49 CFR 1.48.

Issued on: December 6, 1993.

Rodney E. Slater,

Federal Highway Administrator.

[FR Doc. 93–30505 Filed 12–14–93; 8:45 am]

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federal register

Wednesday
December 15, 1993

Part IV

Department of Agriculture

Cooperative State Research Service

Agricultural Research Service

7 CFR Part 3415

Biotechnology Risk Assessment Research Grants Program; Administrative Provisions; Rule

DEPARTMENT OF AGRICULTURE

Cooperative State Research Service

Agricultural Research Service

7 CFR Part 3415

Biotechnology Risk Assessment Research Grants Program; Administrative Provisions

AGENCY: Cooperative State Research Service and Agricultural Research Service, USDA.

ACTION: Final rule.

SUMMARY: This rulemaking establishes part 3415 of title 7, subtitle B, chapter 34 of the Code of Federal Regulations, for the purpose of administering within the Cooperative State Research Service (CSRS) and the Agricultural Research Service (ARS) a Biotechnology Risk Assessment Research Grants Program (program) to be conducted under the authority of section 1668 of the Food, Agriculture, Conservation, and Trade Act of 1990. This rule establishes the procedures to be followed annually in the solicitation of grant preproposals and proposals, the evaluation of such proposals, and the award of research grants under this program.

EFFECTIVE DATE: December 15, 1993.

FOR FURTHER INFORMATION CONTACT: Terry J. Pacovsky, Director, Awards Management Division, Office of Grants and Program Systems, Cooperative State Research Service, U.S. Department of Agriculture, Ag Box 2245, Washington, DC 20250–2245. Telephone: (202) 401–5024.

SUPPLEMENTARY INFORMATION:

Paperwork Reduction

The Office of Management and Budget has approved the information collection requirements contained in these regulations at 7 CFR part 3415 under the provisions of 44 U.S.C. chapter 35 and OMB Document No. 0524–0022 has been assigned. The public reporting burden for the information collections contained in these regulations is estimated to vary from ½ hour to 3 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Department of Agriculture, Clearance Officer, OIRM Ag Box 7630, Washington, DC 20250–7630; and to the Office of Management and Budget, Paperwork Reduction Project (OMB Document No. 0524–0022), Washington, DC 20503.

Classification

This rule has been reviewed under Executive Order No. 12866, and it has been determined that it is not a "significant regulatory action" rule because it will not have an annual effect on the economy of $100 million or more or adversely and materially affect a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities. This rule will not create any serious inconsistencies or otherwise interfere with any actions taken or planned by another agency. It will not materially alter the budgetary impact of entitlements, grants, user fees or loan programs and does not raise novel legal or policy issues arising out of legal mandates, the President's priorities, or principles set forth in Executive Order No. 12866. In addition, it will not have a significant impact on a substantial number of small entities as defined in the Regulatory Flexibility Act, Pub. L. 96–534 (5 U.S.C. 601 *et seq.*).

Regulatory Analysis

Not required for this rulemaking.

Environmental Impact Statement

This regulation does not significantly affect the environment. Therefore, an environmental impact statement is not required under the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 *et seq.*).

Catalog of Federal Domestic Assistance

The Biotechnology Risk Assessment Research Grants Program is listed in the Catalog of Federal Domestic Assistance under No. 10.219. For reasons set forth in the Final Rule-related Notice to 7 CFR part 3015, subpart V (48 FR 29115, June 24, 1983), this program is excluded from the scope of Executive Order No. 12372 which requires intergovernmental consultation with State and local officials.

Background and Purpose

Under the authority of section 1668 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5921), the Secretary of Agriculture is authorized to make grants for environmental assessment research concerning the introduction of genetically engineered organisms into the environment to any public or private research or educational institution or organization. 7 CFR 2. 106(a)(38) and 7 CFR 2.107(a)(37), as amended (57 FR 9649, March 20, 1992), delegate this authority to the Administrators of CSRS and ARS. The Secretary shall withhold from outlays of the Department for research on biotechnology, as defined and determined by the Secretary, at least one percent of such amount for the purpose of making grants under this section for research on biotechnology risk assessment.

Previously, Notices were published in the **Federal Register** annually announcing the availability of funds for competitive research grants and soliciting proposals under this program. In addition, the annual Notices set forth the procedures and criteria for the evaluation of proposals and procedures and conditions relating to the award and administration of these grants. On March 1, 1993, the Department published a Notice of Proposed Rulemaking in the **Federal Register** (58 FR 11910) which proposed to establish and codify such procedures, criteria, and conditions to be employed annually to eliminate the need to publish annually those requirements. The Notice of Proposed Rulemaking invited comments from interested individuals and organizations. Written comments were requested on or before March 31, 1993. During the comment period, four responses were received. No respondents opposed the Notice of Proposed Rulemaking.

Discussion of Comments

One respondent provided general support of the Biotechnology Risk Assessment Research Grants Programs. No change in the rule has been made in response to this comment.

One respondent suggested that the program support research in the area of transgenic beneficial arthropods that would be used in biological control programs. The intent of the authority for this program, section 1668 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5921), is to include the priorities of the biotechnology regulatory agencies having oversight of products produced by biotechnology in the annual solicitation of applications. Each year the research areas to be considered for support under the program are synthesized from multiple sources, taking into account advances in science and the needs of the regulatory agencies. This rulemaking, which governs the procedures and criteria for evaluation of proposals and procedures and conditions relating to the award and administration of grants, and which is not expected to be revised on a frequent basis, is not the appropriate mechanism for establishing shifting research area

priorities; rather, the annual solicitation of applications will establish such priorities. No change has been made to the rule in this regard.

One respondent expressed disappointment in comments received from a review panel regarding a proposal that had been submitted under the program in response to an annual solicitation of applications. Review panel comments are provided as a courtesy to applicants and are intended to assist applicants in revising proposals so that they may have greater success in the competitive process. Since the rule does not prescribe that comments be provided to applicants and since it is done as a courtesy to applicants, no change has been made to the rule in this regard.

One respondent suggested that wording found in the Background and Purpose section of the Proposed Rulemaking (58 FR 11910, third column, second paragraph, last sentence) regarding the amount of funds withheld from the outlays of the Department for research on biotechnology be changed from "* * * at least one percent of such amount for the purpose of making grants under this section for research on biotechnology risk assessment." to "* * * not more than one percent of such amount * * *" This language regarding the amount of funding available for the program is directly quoted from the authorizing statute, section 1668 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5921). Therefore, the Department cannot change this formula in this rule. No change has been made to the rule in this regard.

The Department also has made a few additional clerical changes to the proposed rule published in the Federal Register on March 1, 1993.

List of Subjects in 7 CFR Part 3415

Grant programs—agriculture, Grants administration. For the reasons set out in the preamble, part 3415 is added to title 7, subtitle B, chapter XXXIV of the Code of Federal Regulations as follows:

CHAPTER XXXIV—COOPERATIVE STATE RESEARCH SERVICE AND AGRICULTURAL RESEARCH SERVICE, DEPARTMENT OF AGRICULTURE

PART 3415—BIOTECHNOLOGY RISK ASSESSMENT RESEARCH GRANTS PROGRAM

Subpart A—General

Sec.

Subpart B—Scientific Peer Review of Grant Applications

Authority: 5 U.S.C. 301 and 7 U.S.C. 5921.

Subpart A—General

§ 3415.1 Applicability of regulations.

(a) The regulations of this part apply to research grants awarded under the authority of section 1668 of the Food, Agriculture, Conservation, and Trade Act of 1990, (7 U.S.C. 5921). Grants awarded under this section will support biotechnology risk assessment research to help address concerns about the effects of introducing certain biotechnology products into the environment and to help regulators develop policies concerning the introduction of such products. Taking into consideration any determinations made through consultations with such entities as the Animal and Plant Health Inspection Service, the Forest Service, the Environmental Protection Agency, the Office of Agricultural Biotechnology, and the Agricultural Biotechnology Research Advisory Committee, the Administrators of CSRS and ARS shall determine and announce, through publication of a Notice in such publications as the Federal Register, professional trade journals, agency or program handbooks, the Catalog of Federal Domestic Assistance, or any other appropriate means, specific areas of research for which preproposals or proposals will be solicited and the extent that funds are available therefor.

(b) The regulations of this part do not apply to grants awarded by the Department of Agriculture under any other authority.

§ 3415.2 Definitions.

As used in this part:

(a) *Ad hoc reviewers* means experts or consultants qualified by training and experience in particular scientific or technical fields to render special expert advice, through written evaluations of grant applications, in accordance with the provisions of this part, on the scientific or technical merit of grant applications in those fields.

(b) *Administrator* means the Administrator of the Cooperative State Research Service (CSRS) and/or the Administrator of the Agricultural Research Service (ARS) and any other officer or employee of the Department of Agriculture to whom the authority involved may be delegated.

(c) *Awarding official* means the Administrator and any other officer or employee of the Department to whom the authority to issue or modify grant instruments has been delegated.

(d) *Biotechnology* means any technique that uses living organisms (or parts of organisms) to make or modify products, to improve plants or animals, or to develop microorganisms for specific use. The development of materials that mimic molecular structures or functions of living systems is included.

(3) *Budget period* means the interval of time (usually 12 months) into which the project period is divided for budgetary and reporting purposes.

(f) *Department* means the Department of Agriculture.

(g) *Grant* means the award by the Administrator of funds to a grantee to assist in meeting the costs of conducting, for the benefit of the public, an identified project which is intended and designed to establish, discover, elucidate, or confirm information or the underlying mechanisms relating to a research program area identified in program solicitation.

(h) *Grantee* means the entity designated in the grant award document as the responsible legal entity to whom a grant is awarded under this part.

(i) *Peer review group* means an assembled group of experts or consultants qualified by training and experience in particular scientific or technical fields to give expert advice, in accordance with the provisions of this part, on the scientific and technical merit of grant applications in those fields.

(j) *Principal investigator* means a single individual who is responsible for the scientific and technical direction of the project, as designated by the grantee in the grant application and approved by the Administrator.

(k) *Project* means the particular activity within the scope of one or more of the research program areas identified in the annual program solicitation that is supported by a grant under this part.

(l) *Project period* means the total time approved by the Administrator for conducting the proposed project as outlined in an approved grant application.

(m) *Research* means any systematic study directed toward new or fuller knowledge and understanding of the subject studied.

(n) *Methodology* means the project approach to be followed to carry out the project.

§ 3415.3 Eligibility requirements.

(a) Except where otherwise prohibited by law, any public or private research or educational institution or organization shall be eligible to apply for and to receive a grant award under this part, provided that the applicant qualifies as a responsible grantee under the criteria set forth in paragraph (b) of this section.

(b) To qualify as responsible, an applicant must meet the following standards as they relate to a particular project:

(1) Adequate financial resources for performance, the necessary experience, organizational and technical qualifications, and facilities, or a firm commitment, arrangement, or ability to obtain same (including by proposed subagreements);

(2) Ability to comply with the proposed or required completion schedule for the project;

(3) Satisfactory record of integrity, judgment, and performance, including, in particular, any prior performance under grants or contracts from the Federal government;

(4) Adequate financial management system and audit procedures that provide efficient and effective accountability and control of all funds, property, and other assets; and

(5) Otherwise be qualified and eligible to receive a grant under the applicable laws and regulations.

(c) Any applicant who is determined to be not responsible will be notified in writing of such finding and the basis therefor.

§ 3415.4 How to apply for a grant.

(a) A program solicitation will be prepared and announced through publications such as the **Federal Register**, professional trade journals, agency or program handbooks, the Catalog of Federal Domestic Assistance, or any other appropriate means, as early as practicable each fiscal year.

The Department may elect to solicit preproposals each fiscal year in order to eliminate from consideration proposed research that does not address narrowly focused program objectives. A preproposal will be limited in length (in comparison to a full proposal) to alleviate waste of time and effort by applicants in the preparation of proposals and USDA staff in the review of proposals. If the Department solicits preproposals through publication of the annual program solicitation, the Department does not anticipate publishing a subsequent solicitation for full proposals. Applicants submitting preproposals deemed appropriate to the objectives of this program as set out in the annual solicitation will be requested to submit full proposals; the full proposals will then be evaluated in accordance with § 3415.5 through § 3415.15 of this part.

The annual program solicitation will contain information sufficient to enable applicants to prepare preproposals or full proposals under this program and will be as complete as possible with respect to:

(1) Descriptions of the specific research areas that the Department proposes to support during the fiscal year involved, including anticipated funds to be awarded;

(2) Eligibility requirements;

(3) Obtaining application kits;

(4) Deadline dates for submission of preproposal or proposal packages;

(5) Name and mailing address to send preproposals or proposals;

(6) Number of copies to submit; and

(7) Special requirements.

(b) *Application Kit.* An Application Kit will be made available to any potential grant applicant who requests a copy. This kit contains required forms, certifications, and instructions applicable to the submission of grant preproposals or proposals.

(c) *Format for preproposals.* As stated above, the Department may elect to solicit preproposals under this program. Unless otherwise indicated by the Department in the annual program solicitation, the following general format applies for the preparation of preproposals:

(1) *"Application for Funding (Form CSRS–661)".* All preproposals submitted by eligible applicants should contain an "Application for Funding", Form CSRS–661, which must be signed by the proposing principal investigator(s) and endorsed by the cognizant authorized organizational representative who possesses the necessary authority to commit the applicant's time and other relevant resources. The title of the proposal must be brief (80-character maximum), yet represent the major thrust of the project. Because this title will be used to provide information to those who may not be familiar with the proposed project, highly technical words or phraseology should be avoided where possible. In addition, phrases such as "investigation of" and "research on" should not be used.

(2) *Project summary.* Each preproposal must contain a project summary, the text of which may not exceed three (3) single- or double-spaced pages. The Department reserves the option of not forwarding for further consideration a preproposal in which the project summary page limit is exceeded. The project summary is not intended for the general reader; consequently, it may contain technical language comprehensible primarily by persons in disciplines relating to the food and agricultural sciences. The project summary should be a self-contained specific description of the activity to be undertaken and should focus on:

(i) Overall project goal(s) and supporting objectives;

(ii) Plans to accomplish project goal(s); and

(iii) Relevance or significance of the project to United States agriculture.

(3) *Budget.* A budget detailing requested support for the proposed project period must be included in each preproposal. A copy of the form which must be used for this purpose, along with instructions for completion, is included in the Application Kit identified under § 3415.4(b) of this part and may be reproduced as needed by applicants. Funds may be requested under any of the categories listed on the budget form, provided that the item or service for which support is requested may be identified as necessary for successful conduct of the proposed project, is allowable under applicable Federal cost principles, and is not prohibited under any applicable Federal statute.

(4) *Special requirements.*

(i) The annual program solicitation will describe any special preproposal submission requirements, such as paper size or type pitch to be used in the preparation of preproposals. The solicitation will also describe special program requirements, such as conference attendance or electronic project reporting, for which applicants may allocate funds when preparing proposed budgets.

(ii) By signing the "Application for Funding" identified under § 3415.4(c)(1) in its submission of a preproposal, the applicant is certifying compliance with the restrictions on the use of appropriated funds for lobbying set out in 7 CFR part 3018.

(5) *Evaluation of preproposals.* Preproposals shall be evaluated to determine whether the substance of the proposed project is appropriate to the objectives of this program as set out in the annual program solicitation. Subsequently, the Administrator shall

request full proposals from those applicants proposing projects deemed appropriate to the objectives of this program as set out in the annual program solicitation. Such proposals shall conform to the format for full proposals set out below and shall be evaluated in accordance with § 3415.5 through § 3415.15 of this part.

(d) *Format for full proposals.* Unless otherwise indicated by the Department in the annual program solicitation, the following general format applies for the preparation of full proposals under this program:

(1) *"Application for Funding" (Form CSRS–661).* All full proposals submitted by eligible applicants should contain an Application for Funding", Form CSRS–661, which must be signed by the proposed principal investigator(s) and endorsed by the cognizant authorized organizational representative who possesses the necessary authority to commit the applicant's time and other relevant resources. Investigators who do not sign the full proposal cover sheet will not be listed on the grant document in the event an award is made. The title of the proposal must be brief (80-character maximum), yet represent The major emphasis of the project. Because this title will be used to provide information to those who may not be familiar with the proposed project, highly technical words or phraseology should be avoided where possible. In addition, phrases such as "investigation of" or "research on" should not be used.

(2) *Project summary.* Each full proposal must contain a project summary, the length of which may not exceed three (3) single- or double-spaced pages. This summary is not intended for the general reader; consequently, it may contain technical language comprehensible primarily by persons in disciplines relating to the food and agricultural sciences. The project summary should be a self-contained, specific description of the activity to be undertaken and should focus on:

(i) Overall project goal(s) and supporting objectives;

(ii) Plans to accomplish project goal(s); and

(iii) Relevance or significance of the project to United States agriculture.

(3) *Project description.* The specific aims of the project must be included in all proposals. The text of the project description may not exceed 15 single- or double-spaced pages. The Department reserves the option of not forwarding for further consideration proposals in which the project description exceeds this page limit. The project description must contain the following components:

(i) Introduction. A clear statement of the long-term goal(s) and supporting objectives of the proposed project should preface the project description. The most significant published work in the field under consideration, including the work of key project personnel on the current application, should be reviewed. The current status of research in the particular scientific field also should be described. All work cited, including that of key personnel, should be referenced.

(ii) Progress report. If the proposal is a renewal of an existing project supported under this program, include a clearly marked performance report describing results to date from the previous award. This section should contain the following information:

(A) A comparison of actual accomplishments with the goals established for the previous award;

(B) The reasons established goals were not met, if applicable; and

(C) A listing of any publications resulting from the award. Copies of reprints or preprints may be appended to the proposal if desired.

(4) *Rationale and significance.* Present concisely the rationale behind the proposed project. The objectives' specific relationship and relevance to the area in which an application is submitted and the objectives' specific relationship and relevance to potential regulatory issues of United States biotechnology research should be shown clearly. Any novel ideas or contributions that the proposed project offers also should be discussed in this section.

(5) *Experimental plan.* The hypotheses or questions being asked and the methodology to be applied to the proposed project should be stated explicitly. Specifically, this section must include:

(i) A description of the investigations and/or experiments proposed and the sequence in which the investigations or experiments are to be performed;

(ii) Techniques to be used in carrying out the proposed project, including the feasibility of the techniques;

(iii) Results expected;

(iv) Means by which experimental data will be analyzed or interpreted;

(v) Pitfalls that may be encountered;

(vi) Limitations to proposed procedures; and

(vii) Tentative schedule for conducting major steps involved in these investigations and/or experiments.

In describing the experimental plan, the applicant must explain fully any materials, procedures, situations, or activities that may be hazardous to personnel (whether or not they are directly related to a particular phase of the proposed project), along with an outline of precautions to be exercised to avoid or mitigate the effects of such hazards.

(6) *Facilities and equipment.* All facilities and major items of equipment that are available for use or assignment to the proposed research project during the requested period of support should be described. In addition, items of nonexpendable equipment necessary to conduct and successfully conclude the proposed project should be listed.

(7) *Collaborative arrangements.* If the nature of the proposed project requires collaboration or subcontractual arrangements with other research scientists, corporations, organizations, agencies, or entities, the applicant must identify the collaborator(s) and provide a full explanation of the nature of the collaboration. Evidence (i.e., letters of intent) should be provided to assure peer reviewers that the collaborators involved have agreed to render this service. In addition, the proposal must indicate whether or not such a collaborative arrangement(s) has the potential for conflict(s) of interest.

(8) *Personnel support.* To assist peer reviewers in assessing the competence and experience of the proposed project staff, key personnel who will be involved in the proposed project must be identified clearly. For each principal investigator involved, and for all senior associates and other professional personnel who expect to work on the project, whether or not funds are sought for their support, the following should be included:

(i) An estimate of the time commitments necessary;

(ii) Curriculum vitae. The curriculum vitae should be limited to a presentation of academic and research credentials, e.g., educational, employment and professional history, and honors and awards. Unless pertinent to the project, to personal status, or to the status of the organization, meetings attended, seminars given, or personal data such as birth date, marital status, or community activities should not be included. The vitae shall be no more than two pages each in length, excluding the publication lists. The Department reserves the option of not forwarding for further consideration a proposal in which each vitae exceeds the two-page limit; and

(iii) Publication List(s). A chronological list of all publications in referred journals during the past five years, including those in press, must be provided for each professional project member for whom a curriculum vitae is provided. Authors should be listed in the same order as they appear on each

paper cited, along with the title and complete reference as these items usually appear in journals.

(9) *Budget.* A detailed budget is required for each year of requested support. In addition, a summary budget is required detailing requested support for the overall project period. A copy of the form which must be used for this purpose, Form CSRS–55, along with instructions for completion, is included in the Application Kit identified under § 3415.4(b) of this part and may be reproduced as needed by applicants. Funds may be requested under any of the categories listed, provided that the item or service for which support is requested may be identified as necessary for successful conduct of the proposed project, is allowable under applicable Federal cost principles, and is not prohibited under any applicable Federal statute.

(10) *Research involving special considerations.* A number of situations encountered in the conduct of research require special information and supporting documentation before funding can be approved for the project. If any such situation is anticipated, the proposal must so indicate. It is expected that a significant number of proposals will involve the following:

(i) *Recombinant DNA and RNA molecules.* All key personnel identified in a proposal and all endorsing officials of a proposed performing entity are required to comply with the guidelines established by the National Institutes of Health entitled, "Guidelines for Research Involving Recombinant DNA Molecules," as revised. The Application Kit, identified above in § 3415.4(b), contains a form which is suitable for such certification of compliance (Form CSRS–662).

(ii) *Human subjects at risk.* Responsibility for safeguarding the rights and welfare of human subjects used in any proposed project supported with grant funds provided by the Department rests with the performing entity. Regulations have been issued by the Department under 7 CFR Part 1c, Protection of Human Subjects. In the event that a project involving human subjects at risk is recommended for award, the applicant will be required to submit a statement certifying that the project plan has been reviewed and approved by the Institutional Review Board at the proposing organization or institution. The Application Kit, identified above in § 3415.4(b), contains a form which is suitable for such certification (Form CSRS–662).

(iii) *Experimental vertebrate animal care.* The responsibility for the humane care and treatment of any experimental vertebrate animal, which has the same meaning as "animal" in section 2(g) of the Animal Welfare Act of 1966, as amended (7 U.S.C. 2132(g)), used in any project supported with grant funds rests with the performing organization. In this regard, all key personnel associated with any supported project and all endorsing officials of the proposed performing entity are required to comply with the applicable provisions of the Animal Welfare Act of 1966, as amended (7 U.S.C. 2131 *et seq.*) and the regulations promulgated thereunder by the Secretary of Agriculture in 9 CFR parts 1, 2, 3, and 4. The applicant must submit a statement certifying that the proposed project is in compliance with the aforementioned regulations, and that the proposed project is either under review by or has been reviewed and approved by an Institutional Animal Care and Use Committee. The Application Kit, identified above in § 3415.4(b), contains a form which is suitable for such certification (Form CSRS–662).

(11) *Current and pending support.* All proposals must list any other current public or private research support (including in-house support) to which key personnel identified in the proposal have committed portions of their time, whether or not salary support for the person(s) involved is included in the budget. Analogous information must be provided for any pending proposals that are being considered by, or that will be submitted in the near future to, other possible sponsors, including other USDA programs or agencies. Concurrent submission of identical or similar proposals to other possible sponsors will not prejudice proposal review or evaluation by the Administrator or experts or consultants engaged by the Administrator for this purpose. However, a proposal that duplicates or overlaps substantially with a proposal already reviewed and funded (or that will be funded) by another organization or agency will not be funded under this program. The Application Kit, identified above in § 3415.4(b), contains a form which is suitable for listing current and pending support (Form CSRS–663).

(12) *Additions to project description.* Each project description is expected by the Administrator, the members of peer review groups, and the relevant program staff to be complete while meeting the page limit established in § 3415.4(d)(3). However, if the inclusion of additional information is necessary to ensure the equitable evaluation of the proposal (e.g., photographs that do not reproduce well, reprints, and other pertinent materials that are deemed to be unsuitable for inclusion in the text of the proposal), the number of copies submitted should match the number of copies of the application requested in the program solicitation. Each set of such materials must be identified with the name of the submitting organization, and the name(s) of the principal investigator(s). Information may not be appended to a proposal to circumvent page limitations prescribed for the project description. Extraneous materials will not be used during the peer review process.

(13) *Organizational management information.* Specific management information relating to an applicant shall be submitted on a one-time basis prior to the award of a grant identified under this Part if such information has not been provided previously under this or another program for which the sponsoring agency is responsible. The Department will contact an applicant to request organizational management information once a proposal has been recommended for funding.

§ 3415.5 Evaluation and disposition of applications.

(a) *Evaluation.* All proposals received from eligible applicants and submitted in accordance with deadlines established in the annual program solicitation shall be evaluated by the Administrator through such officers, employees, and others as the Administrator determines are uniquely qualified in the areas of research represented by particular projects. To assist in equitably and objectively evaluating proposals and to obtain the best possible balance of viewpoints, the Administrator shall solicit the advice of peer scientists, *ad hoc* reviewers, or others who are recognized specialists in the areas covered by the applications received and whose general roles are defined in § 3415.2. Specific evaluations will be based upon the criteria established in subpart B, § 3415.15, unless CSRS and/or ARS determine that different criteria are necessary for the proper evaluation of proposals in one or more specific program areas, or for specific types of projects to be supported, and announces such criteria and their relative importance in the annual program solicitation. The overriding purpose of these evaluations is to provide information upon which the Administrator may make an informed judgment in selecting proposals for support. Incomplete, unclear, or poorly organized applications will work to the detriment of applicants during the peer evaluation process. To ensure a comprehensive evaluation, all applications should be

written with the care and thoroughness accorded papers for publication.

(b) *Disposition.* On the basis of the Administrator's evaluation of an application in accordance with paragraph (a) of this section, the Administrator will (1) approve support using currently available funds, (2) defer support due to lack of funds or a need for further evaluation, or (3) disapprove support for the proposed project in whole or in part. With respect to approved projects, the Administrator will determine the project period (subject to extension as provided in § 3415.7(c)) during which the project may be supported. Any deferral or disapproval of an application will not preclude its reconsideration or a reapplication during subsequent fiscal years.

§ 3415.6 Grants awards.

(a) *General.* Within the limit of funds available for such purpose, the awarding official of CSRS or ARS shall make grants to those responsible, eligible applicants whose proposals are judged most meritorious in the announced program areas under the evaluation criteria and procedures set forth in this part. The date specified by the Administrator as the effective date of the grant shall be no later than September 30 of the Federal fiscal year in which the project is approved for support and funds are appropriated for such purpose, unless otherwise permitted by law. It should be noted that the project need not be initiated on the grant effective date, but as soon thereafter as practicable so that project goals may be attained within the funded project period. All funds granted by CSRS or ARS under this Part shall be expended solely for the purpose for which the funds are granted in accordance with the approved application and budget, the regulations of this part, the terms and conditions of the award, the applicable Federal cost principles, and the Department's assistance regulations (part 3015 and part 3016 of this title).

(b) *Grant award document and notice of grant award.*

(1) Grant award document. The grant award document shall include at a minimum the following:

(i) Legal name and address of performing organization or institution to whom the Administrator has awarded a grant under the terms of this Part;

(ii) Title of project;

(iii) Name(s) and address(es) of principal investigator(s) chosen to direct and control approved activities;

(iv) Identifying grant number assigned by the Department;

(v) Project period, specifying the amount of time the Department intends to support the project without requiring recompetition for funds;

(vi) Total amount of Departmental financial assistance approved by the Administrator during the project period;

(vii) Legal authority(ies) under which the grant is awarded;

(viii) Approved budget plan for categorizing allocable project funds to accomplish the stated purpose of the grant award; and

(ix) Other information or provisions deemed necessary by CSRS or ARS to carry out their respective granting activities or to accomplish the purpose of a particular grant.

(2) Notice of grant award. The notice of grant award, in the form of a letter, will be prepared and will provide pertinent instructions or information to the grantee that is not included in the grant award document.

(c) *Types of grant instruments.* The major types of grant instruments shall be as follows:

(1) New grant. This is a grant instrument by which CSRS or ARS agrees to support a specified level of effort for a project that generally has not been supported previously under this program. This type of grant is approved on the basis of peer review recommendation.

(2) Renewal grant. This is a grant instrument by which CSRS or ARS agrees to provide additional funding for a project period beyond that approved in an original or amended award. When a renewal application is submitted, it should include a summary of progress to date from the previous granting period. A renewal grant shall be based upon new application, *de novo* peer review and staff evaluation, new recommendation and approval, and a new award action reflecting that the grant has been renewed.

(3) Supplemental grant. This is an instrument by which CSRS or ARS agrees to provide small amounts of additional funding under a new or renewal grant as specified in paragraphs (c)(1) and (c)(2) of this section and may involve a short-term (usually six months or less) extension of the project period beyond that approved in an original or amended award. A supplement is awarded only if required to assure adequate completion of the original scope of work and if there is sufficient justification to warrant such action. A request of this nature normally will not require additional peer review.

(d) *Funding mechanisms.* The two mechanisms by which CSRS or ARS may elect to award new, renewal, and supplemental grants are as follows:

(1) Standard grant. This is a funding mechanism whereby CSRS or ARS agrees to support a specified level of effort for a predetermined time period without the announced intention of providing additional support at a future date.

(2) Continuation grant. This is a funding mechanism whereby CSRS or ARS agrees to support a specified level of effort for a predetermined period of time with a statement of intention to provide additional support at a future date, provided that performance has been satisfactory, appropriations are available for this purpose, and continued support would be in the best interests of the Federal government and the public. This kind of mechanism normally will be awarded for an initial one-year period, and any subsequent continuation project grants also will be awarded in one-year increments. The award of a continuation project grant to fund an initial or succeeding budget period does not constitute an obligation to fund any subsequent budget period. Unless prescribed otherwise by CSRS or ARS, a grantee must subject a separate application for continued support for each subsequent fiscal year. Requests for such continued support must be submitted in duplicate at least three months prior to the expiration date of the budget period currently being funded. Decisions regarding continued support and the actual funding levels of such support in future years usually will be made administratively after consideration of such factors as the grantee's progress and management practices and the availability of funds. Since initial peer reviews are based upon the full term and scope of the original grant application, additional evaluations of this type generally are not required prior to successive years' support. However, in unusual cases (e.g., when the nature of the project or key personnel change or when the amount of future support requested substantially exceeds the grant application originally reviewed and approved), additional reviews may be required prior to approving continued funding.

(e) *Obligation of the Federal Government.* Neither the approval of any application nor the award of any project grant commits or obligates the United States in any way to make any renewal, supplemental, continuation, or other award with respect to any approved application or portion thereof.

§ 3415.7 Use of funds; changes.

(a) *Delegation of fiscal responsibility.* The grantee may not in whole or in part delegate or transfer to another person,

institution, or organization the responsibility for use or expenditure of grant funds.

(b) *Change in project plans.*

(1) The permissible changes by the grantee, principal investigator(s), or other key project personnel in the approved grant shall be limited to changes in methodology, techniques, or other aspects of the project to expedite achievement of the project's approved goals. If the grantee or the principal investigator(s) is uncertain whether a particular change complies with this provision, the question must be referred to the awarding official of CSRS or ARS, as appropriate, for a final determination.

(2) Changes in approved goals, or objectives, shall be requested by the grantee and approved in writing by the awarding official of CSRS or ARS, as appropriate, prior to effecting such changes. Normally, no requests for such changes that are outside the scope of the original approved project will be approved.

(3) Changes in approved project leadership or the replacement or reassignment of other key project personnel shall be requested by the grantee and approved in writing by the awarding official of CSRS or ARS, as appropriate, prior to effecting such changes.

(4) Transfers of actual performance of the substantive programmatic work in whole or in part and provisions for payment of funds, whether or not Federal funds are involved, shall be requested by the grantee and approved in writing by the awarding official of CSRS or ARS, as appropriate, prior to effecting such changes, unless prescribed otherwise in the terms and conditions of a grant.

(c) *Changes in project period.* The project period determined pursuant to § 3415.5(b) may be extended by the awarding official of CSRS or ARS, as appropriate, without additional financial support, for such additional period(s) as the appropriate awarding official determines may be necessary to complete, or fulfill the purposes of, an approved project. Any extension of time shall be conditioned upon prior request by the grantee and approval in writing by the appropriate awarding official, unless prescribed otherwise in the terms and conditions of a grant.

(d) *Changes in approved budget.* The terms and conditions of a grant will prescribe the circumstances under which written approval must be requested and obtained from the awarding official of CSRS or ARS, as appropriate, prior to instituting changes in an approved budget.

§ 3415.8 Other Federal statutes and regulations that apply.

Several other Federal statutes and regulations apply to grant preproposals or proposals considered for review or to grants awarded under this part. These include but are not limited to:

7 CFR 1.1—USDA implementation of the Freedom of Information Act;

7 CFR Part 1c—USDA implementation of the Federal Policy for the Protection of Human Subjects;

7 CFR Part 3—USDA implementation of OMB Circular A–129 regarding debt collection;

7 CFR Part 15, Subpart A—USDA implementation of title VI of the Civil Rights Act of 1964;

7 CFR Part 520—ARS implementation of the National Environmental Policy Act;

7 CFR Part 3015—USDA Uniform Federal Assistance Regulations, implementing OMB directives (i.e., Circular Nos. A–110, A–21, and A–122) and incorporating provisions of 31 U.S.C. 6301–6308 (formerly, the Federal Grant and Cooperative Agreement Act of 1977, Pub. L. 95–224), as well as general policy requirements applicable to recipients of Departmental financial assistance;

7 CFR Part 3016—USDA Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments;

7 CFR Part 3017, as amended—USDA implementation of Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants);

7 CFR Part 3018—USDA implementation of New Restrictions on Lobbying. Imposes new prohibitions and requirements for disclosure and certification related to lobbying on recipients of Federal contracts, grants, cooperative agreements, and loans;

7 CFR Part 3051—Audits of Institutions of Higher Education and Other Nonprofit Institutions;

7 CFR Part 3407—CSRS implementation of the National Environmental Policy Act;

29 U.S.C. 794, section 504—Rehabilitation Act of 1973, and 7 CFR Part 15B (USDA implementation of the statute), prohibiting discrimination based upon physical or mental handicap in Federally assisted programs;

35 U.S.C. 200 *et seq.*—Bayh-Dole Act, controlling allocation of rights to inventions made by employees of small business firms and domestic nonprofit organizations, including universities, in Federally assisted programs (implementing regulations are contained in 37 CFR part 401).

§ 3415.9 Other conditions.

The Administrator may elect to use a portion of available funding each fiscal year to support an Annual Conference, the purpose of which will be to bring together scientists and regulatory officials relevant to this program. At the Annual Conference, the participants may offer individual opinions regarding research needs, update information and discuss progress, or may offer individual opinions on areas of risk assessment research appropriate to agricultural biotechnology. The annual program solicitation will indicate whether funds are available to support an Annual Conference and, if so, will include instructions on the preparation and submission of proposals requesting funds from the Department for support of an Annual Conference. The Department may also elect to require principal investigators whose research is funded under this program to attend an Annual Conference and to present data on the results of their research efforts. Should attendance at an Annual Conference be required, the annual program solicitation will so indicate, and principal investigators may include attendance costs in their proposed budgets.

The Administrator may, with respect to any grant or to any class of awards, impose additional conditions prior to or at the time of any award when, in the Administrator's judgment, such conditions are necessary to ensure or protect advancement of the approved project, the interests of the public, or the conservation of grant funds.

Subpart B—Scientific Peer Review of Research Grant Applications

§ 3415.10 Establishment and operation of peer review groups.

Subject to § 3415.5, the Administrator shall adopt procedures for the conduct of peer reviews and the formulation of recommendations under § 3415.14.

§ 3415.11 Composition of peer review groups.

(a) Peer review group members and *ad hoc* reviewers will be selected based upon their training and experience in relevant scientific or technical fields, taking into account the following factors:

(1) The level of formal scientific or technical education by the individual and the extent to which an individual is engaged in relevant research activities;

(2) The need to include as peer reviewers experts from various areas of specialization within relevant scientific or technical fields;

(3) The need to include as peer reviewers experts from a variety of organizational types (e.g., universities, Federal laboratories, industry, private consultant(s), Federal and State regulatory agencies, environmental organizations) and geographic locations; and

(4) The need to maintain a balanced composition of peer review groups related to minority and female representation and an equitable age distribution.

§ 3415.12 Conflicts of interest.

Members of peer review groups covered by this part are subject to relevant provisions contained in title 18 of the United States Code relating to criminal activity, Departmental regulations governing employee responsibilities and conduct (part O of this title), and Executive Order No. 11222, as amended.

§ 3415.13 Availability of information.

Information regarding the peer review process will be made available to the extent permitted under the Freedom of Information Act (5 U.S.C. 552), the Privacy Act (5 U.S.C. 552a.), and implementing Departmental regulations (part 1 of this title).

§ 3415.14 Proposal review.

(a) All grant applications will be acknowledged. Prior to technical examination, a preliminary review will be made for responsiveness to the program solicitation (e.g., relationship of application to announced program area). Proposals that do not fall within the guidelines as stated in the program solicitation will be eliminated from competition and will be returned to the applicant.

(b) All applications will be carefully reviewed by the Administrator, qualified officers or employees of the Department, the respective peer review group, and *ad hoc* reviewers, as required. Written comments will be solicited from *ad hoc* reviewers when required, and individual written comments and in-depth discussions will be provided by peer review group members prior to recommending applications for funding. Applications will be ranked and support levels recommended within the limitation of total available funding for each research program area as announced in the program solicitation.

(c) No awarding official will make a grant based upon an application covered by this part unless the application has been reviewed in accordance with the provisions of this part and unless said reviewers have made recommendations concerning the scientific merit and relevance to the program of such application.

(d) Except to the extent otherwise provided by law, such recommendations are advisory only and are not binding on program officers or on the awarding officials of CSRS and ARS.

§ 3415.15 Evaluation factors.

In carrying out its review under § 3415.14, the peer review group will take into account the following factors unless, pursuant to § 3415.5(a), different evaluation criteria are specified in the annual program solicitation:

(a) Scientific merit of the proposal.

(1) Conceptual adequacy of hypothesis;

(2) Clarity and delineation of objectives;

(3) Adequacy of the description of the undertaking and suitability and feasibility of methodology;

(4) Demonstration of feasibility through preliminary data;

(5) Probability of success of project;

(6) Novelty, uniqueness and originality; and

(7) Appropriateness to regulation of biotechnology and risk assessment.

(b) Qualifications of proposed project personnel and adequacy of facilities.

(1) Training and demonstrated awareness of previous and alternative approaches to the problem identified in the proposal, and performance record and/or potential for future accomplishments;

(2) Time allocated for systematic attainment of objectives;

(3) Institutional experience and competence in subject area; and

(4) Adequacy of available or obtainable support personnel, facilities, and instrumentation.

(c) Relevance of project to solving biotechnology regulatory uncertainty for United States agriculture.

(1) Scientific contribution of research in leading to important discoveries or significant breakthroughs in announced program areas; and

(2) Relevance of the risk assessment research to agriculture and environmental regulations.

Done at Washington, DC, this 6th day of December, 1993.

John Patrick Jordan,

Administrator, Cooperative State Research Service.

Essex E. Finney, Jr.,

Acting Administrator, Agricultural Research Service.

[FR Doc. 93–30557 Filed 12–14–93; 8:45 am]

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federal register

Wednesday
December 15, 1993

Part V

Department of the Interior

Fish and Wildlife Service

50 CFR Part 20

Migratory Bird Hunting; Notice of Emergency Closure; Rule

DEPARTMENT OF THE INTERIOR

U.S. Fish and Wildlife Service

50 CFR Part 20

Migratory Bird Hunting; Notice of Emergency Closure

AGENCY: U.S. Fish and Wildlife Service, Interior.

ACTION: Notice of closure.

SUMMARY: This notice advises the public that the Canada goose hunting season for the Swan Lake Zone of Missouri was closed by prior emergency action of the Director of the Fish and Wildlife Service (hereinafter Service). The quota for that zone was filled and, therefore, the season for taking Canada geese in that zone was closed effective at sunset on December 13, 1993. No Canada geese shall be killed in that zone after that time and date.

EFFECTIVE DATE: December 13, 1993.

FOR FURTHER INFORMATION CONTACT: Paul R. Schmidt, Chief, Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, ms 634—ARLSQ, 1849 C Street, Washington, DC 20240, (703) 358–1714.

SUPPLEMENTARY INFORMATION: Regulations allowing the hunting of Canada geese in Missouri were published in the **Federal Register** on September 24, 1993, (58 FR 50188) and September 28, 1993, (58 FR 50702). Those regulations established a harvest quota of 5,000 Canada geese for the Swan Lake Zone of Missouri. The Swan Lake Zone of Missouri is that area bounded by U.S. Highway 36 on the north, Missouri Highway 5 on the east, Missouri Highway 240 and U.S. Highway 65 on the south, and U.S. Highway 65 on the west. The regulations also established season dates of October 30 through November 7 and November 20 through December 20 for this zone unless the 5,000–goose quota was filled before December 20. Procedures for closure in the event that the quota was filled prior to December 20 are specified in 50 CFR 20.26 and in the afore-mentioned **Federal Register** documents. A legal notice of closure must be issued by the Director of the Service and published in local information media 48 hours prior to the time when the quota was expected to be reached and the closure made effective.

Monitoring of Canada geese in the area led the Service and the Missouri Department of Conservation to conclude that the quota would be filled by sunset on December 13. Therefore, the Service gave notice, as required by 50 CFR 20.26, that the season for taking Canada geese in the Swan Lake Zone of Missouri would be closed at sunset on December 13, 1993, and that no Canada geese could be killed in that zone after that time and date.

That closure was effective by force of the afore-mentioned Federal Register documents. The procedure to close the hunting season should the Canada goose harvest quota be achieved prior to the end of the season was prescribed in the final rulemakings for these regulations and was made available for public comment as part of those rulemaking actions.

Authorship

The primary author of this notice is William O. Vogel, Office of Migratory Bird Management.

List of Subjects in 50 CFR Part 20

Exports, Hunting, Imports, Reporting and recordkeeping requirements, Transportation, Wildlife.

Authority: Migratory Bird Treaty Act (July 3, 1918), as amended, (16 U.S.C. 703–711); the Fish and Wildlife Improvement Act of 1978 (November 8, 1978), as amended, (16 U.S.C. 712); and the Fish and Wildlife Act of 1956 (August 8, 1956), as amended, (16 U.S.C. 742 a-d and e-j).

Dated: December 10, 1993.

Richard N. Smith,

Acting Director, U.S. Fish and Wildlife Service.

[FR Doc. 93–30677 Filed 12–13–93; 12:28 pm]

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LIST OF PUBLIC LAWS

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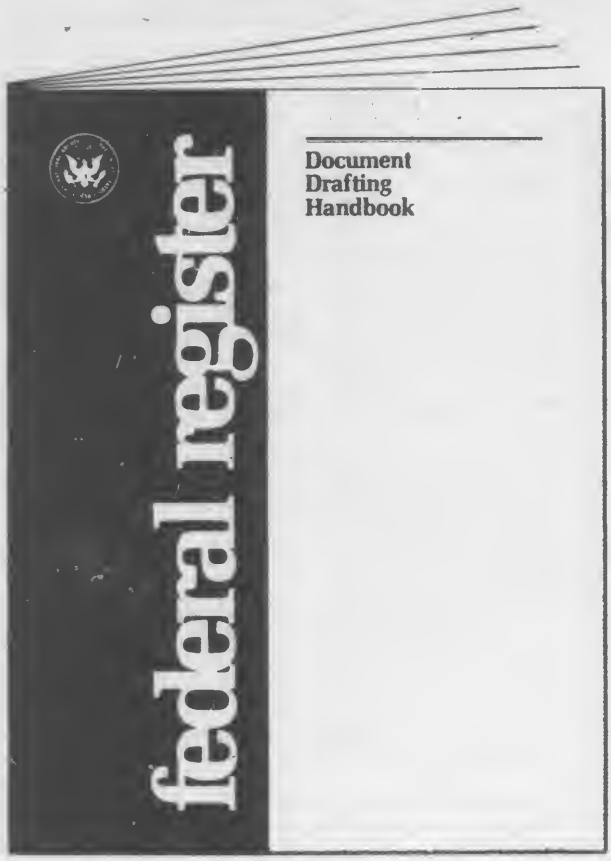

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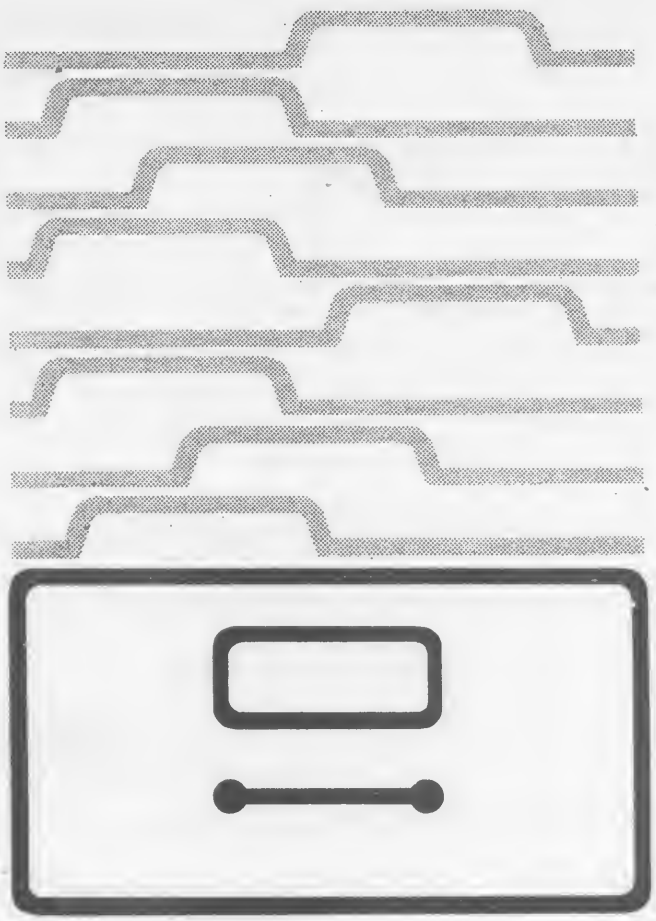

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in the Code of Federal Regulations (CFR)

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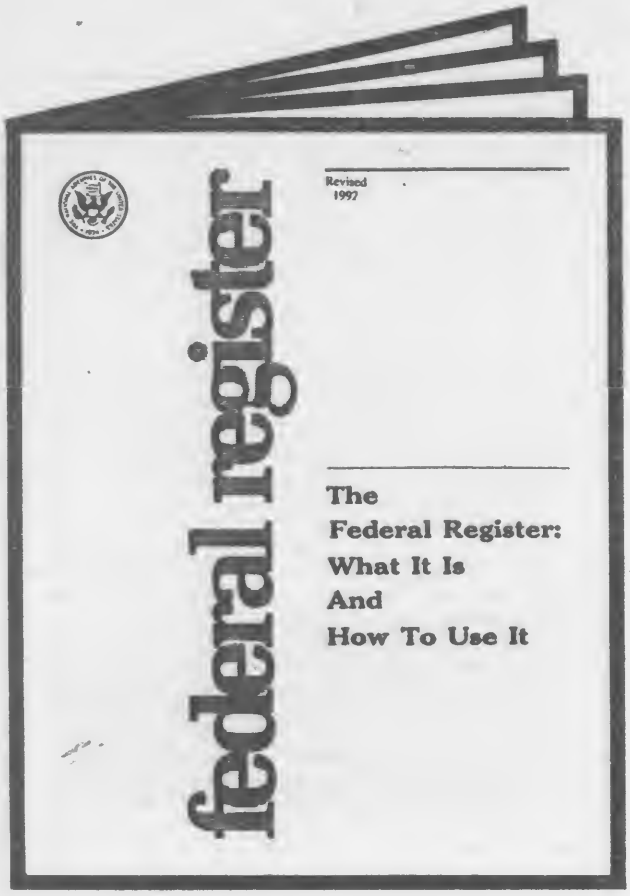

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